



Officium Vicecomitum.

THE
OFFICE AND AV-
thoritie of SHERIFS.

WRITTEN FOR THE
better incouragement of the Gentie
(vpon whom the burthen of this Office
lyeth) to keepe their Office, and Vndersherife,
in their houses; That so by their continuall care of
the businesse, and eye ouer their Officers,
they may the better discharge their dutie to
God, their Prince, and Countrey, in the
execution of this their Office.

GATHERED OVT OF THE STA-
tutes, and Bookes of the Common
Lawes of this Kingdome.

By MICHAEL DALTON of
Lincolnes Inne Esquire.

Our Countrey is the common Mother of vs all.

LONDON,
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STATIONERS.

1623.

Cum Privilegio.





TO THE RIGHT HO-
NORABLE AND RIGHT
REVEREND FATHER IN GOD

JOHN, LORD BISHOP OF LIN-
colne, Lord Keeper of the Great Seale of Eng-
land, and one of his Maiesties most honou-
rable priue Councell.

Right Honourable,



And my especiall good Lord;
The saying of the wise man,
*That much reading is a weari-
nesse to the flesh,* I haue found
by experience to be true. Ne-
uerthelesse a Man should neuer be wearie
of well doing, and therefore this Labour of
mine, howsoeuer weakely done, yet ten-
ding to the weale publicke, and common
good of my Countrie, I haue once againe
thought meete to offer to the publicke view,
partly in duetie to the Kings most excellent
Maiestie, and partly in zeale to the benefit
of my Countrie. For the scope of this booke

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is principally the preservation of his Maiesties peace, the Execution of Iustice, and the keeping of his Maiesties rights : The first whereof, is the safetie of his Maiestie, his royall issue, and of all his subiects : The second, is the life of his lawes : And the last, the maintenance of his Honour, and Regall estate ; wherein I haue done his Maiestie the best seruice I can . The second thing aimed at in the composing of this Booke, is the good of my Countrie ; for it setteth forth the Office, Authoritie, and Duetie of the Sherife, who is his Maiesties deputie in his countie, and hath committed vnto him (*Custodiam Comitatus*) the charge of the whole countie ; the execution of whose charge in euerie of the three former particulars tendeth not onely to the good of the Prince, but also of all his people. And for the gentrie of this land, vpon whom the burthen of this office lyeth, they (by a kind of custome) haue vsed to transferre and turne ouer this their authoritie and charge, to their Vndersherifes and Officers (men for the most part of meane estate, who looking onely after their priuate profit, neglect the publicke, regarding little or nothing, either the preservation of the Kings rights, or the common good of the Countrie ;

DEDICATORIE.

Countrie; but contrariwise vse much deceit, to the King in concealing his rights and duties, and much oppression to his subiects) wherein they neither well foresee the hazard which may come to themselves, by the breach of their oathes to God, and by the indamaging of their estates and credit in their Countrie; nor yet the dayly and manifold oppressions and extortions which be vsed by these vnder officers in diuers parts of this Realme, to the intollerable grieuances of the subiects. All these in some measure I haue herein discovered; And a principall meanes to preuent these things hereafter, I conceiue to be, the plaine setting downe of this Authoritie, and Office of the Sherife, and the discoverie of these abuses; that such as hereafter shall vndergoe the place, may more fully vnderstand themselves, and these things; and so may the better endeouour to execute their said Office, according to their Oathes; whereby they shall the better performe their duties to GOD, their PRINCE, and their Countrey. I haue presumed to craue your Honours Patronage of this my labour, both because your Lordship, in regard of your high place, hath a principall charge vnder his Maiestie, for the appointing and chosing
of

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of these great Officers of Iustice; and also
to testifie my vnfained thankfulness to your
Lordship for your especiall fauour, which
you haue many wayes vouchsafed vnto me,
wherein crauing your Honours acceptance
of my well meaning towards your Honour,
and the seruice of my Countrey, I humbly
take my leaue, praying to God for the conti-
nuance of your Lordship, in all Honor and
prosperitie in this life, and euerlasting hap-
pinesse in the life to come.

*Your Lordships in all
dutie euer bounden,*

MICHAEL DALTON.



THE OFFICE AND AV-
thoritie of Sherifes gathered out of the
Law booke and Statutes of this

R. E. I. A. L. M. E.

Co. 9. 49. &
97.



The most eminent & supreme dignitie from the Conquest vntill the 11. yeare of King Edward the third, was the Earle or Countee, being aunciently of the bloud Royall, and taking their names. Comites à Comitatu, or, Comit-tes nomen acceperunt à comitando, quia principem comitarentur ad bella publica que negotia, ejus lateri semper hærentes: And these were of auncient time Præfecti seu Præpositi comitatus, the Rulers or Gouvernours of the counties or shires vnder the king, for so imports the Saxon words, scz. Shire Reue, id est, le Rene del Shire, which is as much as Præpositus comitatus. And these Earles had aunciently committed to them from the king the charge and custodie of the countie, which the shirife now hath.

Cambden
165.

For the two honourable names, titles, and dignities of Dukes and Marqueses came in long after the Conquest: the name or title of Duke being no name of dignitie in England, vntill the time of King Edward the third, who first created his eldest sonne Prince Edward (called the Blacke Prince) Duke of Cornewal, and after also created his other sonnes Dukes,

And Marqueses, their title or name was not before the time of King Richard the second; Robert Earle of Orford being then made the first Marques, as appeareth by Master Cambden in his Britania.

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Vicecomes.

The Sherife, Vicecomes, est vicem gerens, seu Vicarius Comitis, following and executing all matters of justice, as the Earle should do. And auncient Kings ordeined in euerie countie these Sherifes, to keepe the peace &c. when the Earles were absent from their charges, Co.9. Preface.

It seemeth that Earles, by reason of their high employments, being not able to follow also the businesse of the countie, were deliuered of all that burden, and onely enjoyed the honour as now they do: and the Sherife though he be still called Vicecomes, yet all he doth, and all his authoritie is immediatly from and vnder the King, and not from or vnder the Earle. So then at this day the Sherife hath all the authoritie, for the administration and the execution of justice, which the Countee or Earle had, the King by his Letters Patents now committing to the Sherife Custodiam Comitatus. Co.9.49. See the patent of his office hic postea.

Subvicecomes.

And although the King by his Letters Patents graunteth to the Sherife Custodiam Comitatus without any expresse words to make a deputie, yet the Sherife (qui gerit vicem Comitatus) who cometh now in place of the Countee, may make his deputie, his Subvicecomes, or Undersherife, who in auncient time was called Seneschallus Vicecomitis, and in the Statute of Westminster 1. cap. 39. (made ann 13. Ed. 1. & ann Dom. 1285.) he is called Sub vicecomes, and in the Statute made 11 Hen. 7. cap. 15. he is called the Shire Clerke. Co.9.49.

Their Antiquitie.

Sherifes were great officers, and ministers of justice (as now they are) long time before the Conquest, Co. lib. 3. preface, & 4. fol. 33.

Master Cambden sheweth out of Ingulphus that Sherifes were first ordeined of King Alfred (or Alfred, otherwise called Alured in our English Chronicles) who reigned about Anno dom 871. And that he first diuided England into countiees, and after caused the countiees (or shires) to be parted into hundreds or tythings, and that euerie Englishman liuing vnder law as a liege subject, should be within one hundred and tithing or another; and if a man were accused of any transgression, he should bring in straightwaies some one out of the same hundred and tything, that would be

Cambden
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be bound for his apparance to answer the law; but he that could not find such a suretie, should abide the severitie of the lawes: and in case any man standing thus accused (either before, or after suretiship) fled, then all that hundred and tything incurred a mulet or fine to be imposed by the king. He also divided the Governours of the prouinces (which before were called Vice Domini, that is Vice Lords) into two offices, to wit, Judges, now Justices, and Vicecomites, that is Sherifes, which still retaine the same name: hæc Camden, out of Ingulphus, and Malmesburie.

Facta etiam Ministrorum suorum diligenter inuestigauit, adeo ut quos ex auaritia, aut imperitia errare cognosceret, ab officio remouebat. This king Alfred did also diligently search out the doings of his officers, so that if he knew any of them to erre, either thzough couetousnesse, or vnkilfulnesse, them he remoued from their office. Fox. 129.

This word Sherife, or Shireue, is deriued of two Saxon words, viz. of *Syre*, that is the Shire or Countie, and *Reue*, that is keeper or Gardian, and so *Syre Reue* is the keeper or Gardian of the Shire.

But albeit the Saxons in their time gaue this Officer the vulgar name vled to this day, yet it is manifest that the office was of auncient time, and before the Saxons set any foot in England. Co. 9. Preface. So also before the time of the Saxons comming into England, and long before the time of king Alfred, this kingdome was diuided into shires or counties, but king Alfred in his time made the most certaine diuision of them; for where during the time of the Heptarchie, there were many incrochments one vpon another, and many auncient bounds obscured, all that he reformed by his exact partition. Co. 9. Preface.

The Sherife then, as his name propoerts him to be the keeper or gouernour of the countie, so to this day his patent is, *Commissimus tibi custodiam comitatus*.

At the first all administration of justice was in one hand, scz. in the Crowne, but afterwards by reason of the multitude of people, the administration of justice was diuided into counties, and the power was committed to one deputie within euerie countie, scz. first to the Earle, as is before said,

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and after (in his absence) to the Sherife, who was, and now is appointed to be the Kings Deputy to keepe the peace, and also that all the people should be obedient to him, and ready at his command in Defence of the realme, when any of the Kings enemies should come, & so he was appointed to be a conservator of the peace, and to punish malefactors, and to defend the realme when enemies should come, and to be attendant upon the King in time of war, and to cause all the people within his countie to go with the King for to defend the land against the Kings enemies &c.

So then the high Sherife (Vicecomes) is an officer of great antiquitie, and of great trust and authoritie, hauing from the King the custodie, keeping, and command, of the whole Countie committed to his charge and care. Co.4.33.

*What manner
of persons.*

And for that this Office is of so great trust, it is meete that such persons as shall be chosen thereunto, be men of good sufficiencie, and such as may attend it, least otherwise the King be much indammaged, and his people be disinherited, and oppressed; and to this purpose the Statutes made 9. Edw. 2. 2. Edw. 3. ca. 4. 4. Edw. 3. cap. 9. & 5. Edw. 3. cap. 4. haue ordained, that no man shall be Sherife in any Countie, except he haue sufficient lands within the same Countie (or Shire) where he shall be Sherife, whereof to answer the King, and his people, in case that any man shall complaine against them.

Neither shall any Steward, or bailife to any great Lord, be made Sherife (except he be put forth of service,) but such persons onely shall be appointed as may wholly attend to serue the King, and his people Statute 9. Ed. 2.

*Their electi-
on.*

The High Sherife is to be appointed yearly by the Lord Chancellor or keeper of the great Seale, the Lord Treasurer of England, the President of the Kings Council, the keeper of the Kings priue Seale, and the chiefe Baron of the Exchequer, taking to them the chiefe Justices of the one Bench and of the other, as appeareth by the Statutes of 14. Edw. 3. cap. 7. & 21. H. 8. cap. 20. whereas in former times they were chosen by the countie as it appeareth by the Statute made 28. Ed. 1. cap. 8. & 13.

The election of the Sherife shall be done yearly in the morrow

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moreover after All soules, at the Eschequer by the Statutes
9. Edw. 2. & 14. Edw. 3. cap. 7.

13. Ed. 4. c. 1. And the Kings letters Patents whereby the new Sherifes are made, doe commonly beare date the first day of Nouember.

Co. 4. 33.

The office of a Sherife cannot be apportioned or denied, and therefore when the King maketh or appointeth one to be Sherife durante bene placito, although the King may determine this his Office at his pleasure, yet he cannot determine it in part, as for one Towne, or one Hundred, or any other part, neither can he abridge the Sherife of any thing incident or belonging to his office, for the Office is intier, and so it must continue in that intierie without any fraction or diminution (except it be by act of Parliament, or that the King shall make some Towne &c. a Countie of it selfe, and shall appoint there a Sherife, and all things belonging to a Sherife within the same Towne &c.) Neither can the office of a Sherife be determined, nor any part thereof, without and untill a new Sherife be made for the execution and administration of Justice, Co. 4. 33. See here postea tit. Countie Court.

Cannot be denied.

2. & 3. Ed. 6.
cap. 34.

Now the first thing that every new elected Sherife must doe at the enterance into his Office, is that forthwith before he receiues his patent and before he doth exercise any part of the said Office, he must put in sufficient sureties by himselfe, or by his sufficient deputie or deputies, into the Kings Eschequer (sc. in the Kings remembrancers office there) and there must enter into recognisance in such summe, & upon such conditions (as it seemeth) as the lord Treasurer, and Barons of the Eschequer shall thinke meete, upon paine of euerie Sherife making default therein, to forfeit to the King an hundred pounds to be leuied of his lands and goods wheresoever &c. by procelle to be made out by the said Barons, see the statute of 2. & 3. Ed. 6. c. 34.

He must enter Recognisance.

The high Sherife (or some other for him) hauing entered into Recognisance with sureties in the Eschequer as aforesaid, his Atturney there will write him a note, thereby signifying that he is Sherife of such a Countie, and that he hath entred Recognisance as aforesaid, The which note must be deliuered to one of the Sixe clerkes in the Chauncerie

He must procure his Patents.

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terie for his warrant to make the Sherifes Patents by (sc. the Patent of his Office, with his writ of assistance :) And besides, a writ of discharge, to be deliuered to his predecessor, to discharge him out of his office; the which would be deliuered with all speede, for his owne benefit or his Undersherifes; for vntill it be deliuered to his predecessor, the precedent Sherife may doe execution of all processe.

The high Sherife hath his authoritie giuen him by two Patents; by the one the King commits to him the custodie of the Countie; by the other the King commandes all other his subjects to be aiding and assisting to the Sherife, in all things belonging to his said Office.

The formes of the said Patents are as followeth.

The first Patent of his Office

Iacobus dei gratia Rex Angliæ, Scotiæ, Franciæ, & Hiberniæ, fidei defensor &c. Omnibus ad quos præsentēs literæ peruenirint salutem: sciatis quod Commissimus dilecto nobis A. B. Militi Comitatus nostri Canteburgi. cum pertinent' custodiendū quam diu nobis placuerit, Ita quod firmas debitas nobis reddat annuatim, ac de debitis nostris, & omnibus alijs ad officium vic' commit' nostri prædict' spectant' nobis respondeat ad Scaccar' nostrum, in cuius rei Testimonium has literas nostras fieri fecimus patentes, Teste me ipso apud Westm̄ die anno Regni nostri &c.

The Patent of Assistance.

Iacobus dei gratia Rex Angliæ, Scotiæ, Franciæ, & Hiberniæ fidei defensor &c. Archiepiscopis, Episcopis, Ducibus, Comitibus, Baronibus, Militibus, liberis Hominibus, & omnibus alijs de com' Canteb' salutem. Cum concesserimus dilecto nobis A. B. Militi officium vic' com' nostri prædict' cum pertinent', habendū quam diu nobis placuerit prout in literis nostris patentibus ei inde confectis plenius continetur, vobis mandam' quod eidem A. B. tanquam vicecom' nostro com' prædict' in omnibus quæ ad officium illud pertineñ intendent' sitis auxiliantes & respondent'. In cuius rei testimonium has literas nostras fieri fecimus patentes,

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patentes, teste me ipso apud Westm̄ die Anno
regni nostri &c.

The forme of the writ of discharge directed to the old Sherife.

Dyer 35. **I** Acobus &c. dilecto sibi R. S. armig. nuper vicecom̄ Canteb̄ salutem. Cum concesserimus dilecto &c. nobis A. B. militi com̄ nostrum prædict' custodiend' quam diu nobis placuerit, prout in literis nostris patentibus ei inde concess'. plenius continetur, tibi præcipimus quod eidem A. B. com̄ nostr' prædict' cum pertinentijs, vna cum rotulis, breuibus, memorand', & omnibus alijs ad officium vicecom̄ prædict' spectant', quæ in custodia tua existunt, per Indenturas inde inter te, & præfatum A. B. debite conficiend' liberes. Teste me ipso apud Westmonaster' quinto die &c.

Co. 3. 72. **And yet it seemeth by the Register fol. 295. that there be (or haue beene) two Writs or Commissions to this purpose, The first a writ of discharge in these words.**

Rex omnibus ad quos &c. salutem. Scitis quod commissimus dilecto nobis A. B. &c. (who is the new Sherife) com̄ nostrum Canteb̄ cum pertinen' custodiend' quam diu nobis placuerit &c. In cujus rei &c.

And then another writ is directed also to the old Sherife, and the effect thereof is thus.

Et mandatum est R. S. armigeri nuper vic' com̄ prædict' quod eidem A. B. milit', com̄ prædict' cum pertinentijs, vna cum rotulis, breuibus, memorand', & omnibus alijs officiū illud tangent', quæ in custodia sua existunt, per Indenturas inde, modo debito conficiend' liberet custodiend' in forma præd'. Teste &c.

Also euerie Sherife before he shall take vpon him to vse or exercise his said office, must take and pronounce two corporall oathes vpon the holie Euangelists, the one to the kings supremacie, the other concerning the due execution of the office of a Sherife.

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He must take
his Oathes.

The oath to the supremacie the Sherife is to take by force of the statutes made i. Eliz. cap. 1. & 5. Eliz. cap. 1.

The

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The forme of whish Oath followeth.

*To the Sw.
premaire.*

I A. B. doe vtterly testifie and declare in my conscience that the Kings Highnesse is the onely supreme Gouvernour of this Realme, and of all other his Highnesse Dominions and Countreies aswell in all spirituall things or causes as temporall, and that no forraine Prince, Person, Prelate, State, or Potentate, hath or ought to haue any Iurisdiction, Power, Superioritie, Preheminence, or Authoritie, ecclesiasticall, or spirituall, within this Realme, and therefore I doe vtterly renounce and forsake all forraine iurisdiccions, powers, superiorities, and authorities, and doe promise that from henceforth I shall beare faith and true allegiance to the Kings Highnesse his heires and lawfull successors, and to my power shall assist and defend all iurisdiccions, priuiledges, preheminences, and authorities granted or belonging to the Kings Highnesse, his heires and successors, or vnited or annexed to the imperiall Crowne of this Realme, so helpe me God, and by the contents of this booke.

The oath concerning the Office of the Sherife, seemeth to be by the aunient Common Law of this Land, see Dyer folio 168.

The forme whereof is as followeth.

*Concerning
the Office.*

YE shall sweare, that well and truely ye shall serue the Kings Maiestie in the Office of the Sherife of the Countie of Cambridge, and doe the Kings profit in all things that belongeth to you to doe by way of your Office, as farre forth as you can or may, you shall truely keepe the Kings rights, and all that belongeth to the Crowne, ye shall not assent to decrease, to lessing, ne concealement of the Kings rights, or of his Franchises, and whensoever you shall haue knowledge that the Kings right, or the rights of his Crowne beene concealed or withdrawne, (be it in Lands, Rents, Franchises, or Suits, or any other things) ye shall doe your true power to make them to be restored to the King againe, and if you may not doe it ye shall certifie the King, or some of the Councell thereof, such as you hold for certaine will say it to the King, ye shall not respite the Kings debts for any gift or fauour, where you may raise them without great griuance of the debtors; ye shall truely and rightfully treat the people of your Sherifewicke, and doe right aswell to poore as to rich, in all that belongeth

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geth to your Office ; ye shall doe no wrong to any man for any gift or other behest, or promise of goods, for fauour, nor hate; ye shall disturbe no mans right ; ye shall truely acquite at the Eschequer all those of whom ye shall any thing receiue of the Kings debts, ye shall nothing take whereby the King may leese, or whereby the right may be letted or disturbed, or the King delayed, ye shall truely returne and truely serue all the Kings writs as farre forth as shalbe to your cunning, ye shall not haue to be your Vndersherife any of the Sherifes clerkes of the last yeare passed ; ye shall take no Bailife into your seruice, but such as you will answere for, ye shall make each of your Bailifes to make such oath as you make your selfe in that that belongeth to their occupation ; ye shall receiue no writ by you or any of yours vnsealed, or any sealed vnder the seale of any Iustice, faue of Iustices in oyer or Iustices assigned in the same Shire where ye be Sherife in, or other Iustices hauing power and authoritie to make any writs vnto you by the Law of the Land, or of the Iustices of Newgate ; ye shall make your Bailifes of true and sufficient men in the countie. * Also ye shall doe all your power and diligence to destroy and make to cease all manner of heresies and errors commonly called Lollaries within your Bailiwicke from time to time to all your power, and assist and to be helping to all Ordinaries and Commissioners of the holy Church, and fauour and maintaine them as oftentimes as ye shall be required by the Ordinaries Commissioners : ye shall be dwelling in your owne proper person within your Bailiwicke for the time ye shall be in the same Office, (except you be otherwise licenced by the King,) ye shall not let your Sherifewicke, nor any Bailiwicke thereof, to any man ; ye shall truely set and returne reasonable and due issues of them that be within your Bailiwicke, after their estate and behauiour ; and make your pannells your selfe of such persons as be most next, most sufficient, and not suspect, nor procured as it is ordained by the statutes ; and ouer this in eschewing and restraint of the manslaughter robberies and other manifold grievous offences that be done daily, (namely by such as name themselves fouldiers and by other vagrants the which increase in number and multiplie, so that the Kings subiects may not sure ride nor goe to doe such things as they haue to doe, to their inrollerable hurt and hinderance,) ye shall truely and effectually with all diligence possible to your power execute the statutes, as the statutes of Winchester and Vagabonds : All these things ye shall truely obserue and keepe, as God helpe you, and by the contents of this booke.

* Le residue
del serement,
que hic se-
quitur, fuit
inserto do
puisue temps,
come appiert
per le Regi-
ster fol. 301

The

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The parts of this last Oath are shortly these.

*The Kings
Right.*

1 **T**ruely to keepe the Kings rights of his Crowne
(sc. his Lands, Rents, Franchises, Suits, or a-
ny other things) without lessening or concealment of them;
or else to certifie the King, or some of his Councell thereof,

*The Kings
debts.*

2 **T**hat he shall not respite the Kings debts, where they
may be raised without great grievance of the debtor.

Right to all.

3 **T**o doe Right to all, as well pooze, as rich, in all
things belonging to his Office,

*The Kings
debtors.*

4 **T**ruely to acquit at the Eschequer (vpon his ac-
count) all those of whom he shall receiue any of the Kings
debts,

Writs.

5 **T**ruely to serue and returne all the Kings writs,

Under-sherif.

6 **N**ot to haue to his Under-sherif, any of the Sherifes
clerkes of the yeare last past,

*Nota, & qre
how Sherifs
performe
this part of
their Oath.*

Bailifes.

7 **T**o take no Bailife but such as he will answer for;
and such as be true and sufficient men in the Countie.

8 **T**o make each of his Bailifes to take an oath, for
the true exercise of his Office.

Writs.

9 **T**o receiue no writ vnsealed; nor any sealed, except
by Iustices hauing authoritie to make writs vnto him, by
the Law of the Land.

Heresies.

10 **T**o suppress Heresies, and therein to assist the Or-
dinarie, being required,

*To be resi-
dents.*

11 **T**o bee dwelling in person within his Bailiwick
(or Countie) for the tyme he shall be in this Office, except
he be otherwise licensed by the King,

*See the Stat
4.H.4.ca.5.*

Not to farme.

12 **T**hat he shall not let to farme his Sherifewicke,
nor any Bailiwick thereof,

Issues.

13 **T**ruely to set and returne reasonable and due issues,
after

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after the estate of the persons.

* Quere
how this is
performed.

14 to make the pannels * himsele; and of such persons as be next neighbours, most sufficient, and not suspect, nor procured. *Jurist.*

15 Truly and effectually, with all diligence to execute the statutes of Winchester and of Vagabonds. *St. Winch.*

Concerning this last part of this oath, the statute of Winchester (made 13. Edw. 1.) commandeth that fresh suit be made, from Towne to Towne, and from Countie to Countie, after felons (sc. upon robberies murders, burning of houses and other felonies committed): And that Night-watches be duely kept, for the arresting of suspected persons, (who are to be deliuered to the Sherife;) and that high waies be enlarged, that felons and euill doers may not lurke therein to doe hurt &c. and of all these things the Sherife is to Enquire in his Torne: see hic postea titul' Torne.

Now what else the Sherife may or ought to doe in these cases: It seemeth by the said statute of Winchester ca. 1. 2. & 4. and by the statute made 5. Ed. 3. cap. 14. That if any person suspected for felonie shall bee apprehended by the Countie, upon such fresh suit or Hue and Cry, or that any suspected person shall bee arrested by the Constables or Townsmen upon their watches by day or by night, and that such persons shall bee deliuered to the Sherife, the Sherife may receive them without damage, and shall keepe them safely (and may commit them to the Gaole) untill they shalbe acquitted in due manner, sc. untill the coming downe of the Iustices assigned to deliuer the Gaole; and in the meane time the Sherife shall enquire of such arrests, and at the coming of the Iustices they must returne such Enquests before the Judges of gaole deliuerie, which they haue found, and the cause of the taking, with the bodies of such offenders; but Quere whether the Sherifes shall enquire of such arrests &c. in their Torne, or where else, for if it be in their Torne then by the statute 1. Ed. 4. cap. 2. they must deliuer their Iudgments to the Iustices of peace at their Sessions: see hic tit' Torne.

Also

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Also by the statute of Winchester cap. 6. Sherifes are commanded to follow the Hvy and Cry with the Countre, and to keepe Horses, and Armour so to doe, quod nota.

Also (by the statute made 7. R. 2. cap. 6.) everie Sherife ought in person foure times in the yeare, to proclaime the statute of Winchester in every Hundred of his Countie, and in everie Market Towne, by his Bailifes; see stat' 28. Ed. 1. cap. 17.

But what more the Sherifes stand bound to do by this last Article of their Oath, concerning the Statutes of Winchester, and of Vagabonds, Quære.

Before whom the Sherife shall take his Oathes.

Before whom

The high Sherife ought to take these Oaths (to the supremacy, and for the due execution of his Office) before one of the Judges of the Assises of that Shire whereof he is Sherife, or before one of the Masters of the Chancery; and this would be done (sc. these Oaths would be taken by the Sherife) so soone as his Patents be made (if the Sherife be then in London,) for untill he be sworn he may not intermeddle nor take upon him to use or exercise his said Office; or else the Lord Chancellor or Lord Keeper of the great Seale of England may make and direct a speciall Commission (viz. a writ of Dedimus potestatem) under the great Seale of England to any two Justices of Peace of the same Countie, whereof one must be of the Quorum, giving them authoritie thereby to tender and minister the said Oaths to the new Sherif in the Countrey, and this now is vsuall.

And yet it seemeth such a Dedimus potestate may be directed to any other person or persons: see Dy. 168. Bronkers case, where a Dedim' (for this purpose) was directed to one Hide onely; and so it is used in all the Shires of Wales, as may appeare by the statute made Anno 34. Hen. 8. cap. 26.

This Dedimus potestate they may haue from the Clerke of the Chancery which made the Patents.

But

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But such Commissioners to whom such a Dedimus potestatem shall be directed, to take these Oathes, must certify the same into the Chauncerie, at such day as the writ commaundeth them.

And the certificate or Returne of such Dedimus potestatem may be in this sort following.

*The returne of a Dedimus potestatem, to take
the Oath of a Sherife*

Virtute istius brevis nobis directi (tali die, & Anno &c. infrascript') recepimus Sacrament' infranominat' A. B. vicecom' Canteb' de officio illo bene & fideliter faciend', iuxta formam cuiusdam scedulæ, præsentibus annex' prout interius nobis precipitur ac prout breue istud in se exigit & requirit.

F. B.
&
M. D. } *Commission'*

Executio istius brevis (of Commissionis) patet in quadam schedula huic breui annexa.

Nos F. B. & M. D. in Cancellariam domini regis certificamus, nos virtute brevis domini Regis, huic schedulæ, annexat' quarto die mensis Decemb' Anno regni dicti domini nostri *Aliter.*
Schedula.
Jacobi dei gratia Regis Angliæ, &c. vicesimo & Scotiæ quinquagesimo apud C. in comitat' Canteb', recepisse Sacrament' A. B. militis (in breue prædict' nominat') tam de officio vicecom' in dicto com' Canteb' bene & fideliter faciend', iuxta formam schedulæ, breui prædict' annexæ, quam Sacramentum specificat' in actu parlamenti Ann' regni domin' Elizabethæ, nup' Reginæ, Angliæ &c. primo fact' secundum tenorem brevis & schedulæ breui prædict' similiter annex', et in omnibus prout in prædict' breui præcipitur.

F. B.
&
M. D.

C

And

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And if such Commissioners, shall returne the Commission (or writ) and the Oathes to be taken, when they were not taken this is finable in the Starre Chamber Dyer 168.

Anno 1. Eliz. Bronker Sherife of Wilt. was sued of per-^{Dyer 167.} turie in the Star Chamber (by information at the Queenes suit) for a false returne by him made of Sir Iohn Thinne to be Knight of the Parliament for the said Countie, whereas in trueth one Penruddoke was chosen by the greater number of Freeholders in the said Countie (in deceipt of the Countie, and whole Realme) and it did appeare vpon examinations taken that (the Sherife) Bronker was neuer sworn to execute his Office, although there were a Dedimus postestatem directed to one Hide to giue Bronker his oath, but Hide had disuaded him from taking his oath in regard of the difficultie of the Articles or matters therein contained; and this matter by graue resolution and in the honozable and great assembly of the Starre Chamber was decreed against Bronker in manner following, that is to say, first for the contempt of the auncient Law (sc. that euerie Sherife was to take such an oath, in incepto officij, in the beginning of his office, or before he should execute his office) Bronker was adiudged to pay for his fine to the Queene an hundred pounds, besides the imprisonment of five weekes, and also he was adiudged to pay another hundred pounds to the Queene according to the statute for his false returne and to be imprisoned for one yeare without baile, and Hide was fined at twentie Markes besides imprisonment: And also Bronker and Penruddoke were bound by Recognisance, to stand to the Arbitrement of fouer of the Noble men for the hundred pounds due to Penruddoke.

So if the Sherife shall exercise, vse, supply, or occupie, his said Office, before he hath taken both these oathes (sc. to the Supremacie, and concerning his Office) he is finable in the Starre Chamber Dyer 168.

Also if the Sherife shall not performe his Oath concerning his Office, hee shall not onely be in danger of periturie, but also to bee fined &c. in the Starre Chamber, see Dyer 61. & 168.

Per see Co. 11. 98. That a man shall not be charged in any Court Iudiciall, for the breach of a generall Oathe, which

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8

which he taketh when he is made an Officer or minister.

There is a third Oath tending to the declaration of that dutie, loyaltie and obedience, which euerie well affected subject, by the Law of God, and bond of allegiance, ought to beare to his Soueraigne, which Oath is by force of the statute 3. Iacobi Regis cap. 4. And is to bee taken by all Sherifes (and other Officers and Ministers of Justice) whensoever it shall lawfully tendered to them; and this is to be taken (by the Sherife) before one of the chiefe Iustices (of the Kings Bench, or Common pleas) or before one of the Iustices of Assise of the same Countie, whereof he is Sherife, or before such other person as the Lord Chancellor or Keeper of the great Seale shall thereto authorize, by Commission or writ of *Edimus potestatem*.

The oath of Allegiance.

7. Iac. cap. 6.

The forme of the Oath of Allegiance you may see at large, in the stat. 3. Iac. cap. 4.

After that the Sherife hath taken the said oath to the supremacie, and for the due execution of his Office, then upon the writ of discharge deliuered to (his predecessor) the old Sherife (or at or before the first Countie Court to be kept by the new Sherife) the new Sherife must take due from the old Sherife, all his prisoners (which are in the Gaole by their names,) and all his writs, precisely by view and by Indenture to be made betweene the old Sherife and the new Sherife, in which Indenture all the causes which the old Sherife hath against euerie prisoner, must be set forth and deliuered, at the perill of the old Sherife, or else the new Sherife needes not to take any notice of any thing that is omitted and left out of the Indenture; for he is not chargeable with it, but the old Sherife, as it appeareth in Westbies case (Co. 3. fol. 72.) against the Sherifes of London where the case was this: one Buston was seuerally in execution vnder custodie of (Skinner and Catcher) the Sherifes of London, aswell at the suit of one Dighton, as at the suit of Westbie the plaintife, and the said Skinner and Catcher the defendants, at the end of their yeare, deliuered ouer the bodie of Buston (amongst other prisoners) to the new Sherifes by Indenture, in which Indenture the execution at the suit of Dighton was mentioned, but the execution at the suit of Westbie the plaintife was omitted, and after Buston escaped, and it was adiudged that the old Sherifes

⁴
He must take by Indenture the prisoners, and writs.

Crom. 203.

Co. 4. 72. 2.

Co. 3. 72.

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Escape.

rises (Skinner, and Catcher) should be charged with this escape; for when the bodie of Buston was deliuered to the new Sherifes as in execution at the suit of Dighton only, Buston was thereby out of custodie of the new Sherifes for the execution of Westbie; for that the prisoner was not deliuered to the new Sherifes (nor they charged with him) for the execution of Westbie the plaintife; and although Buston were still within the Gaole (at the suit of Dighton) yet this was adiudged an escape, in Law, as to Westbie, for that Westbie (in whom there was no default) ought not to be without remedie in this case.

Also in this former case of Westbies, it was resolved, that untill the prisoners be deliuered to the new Sherife, ^{Co. 3. 71.} they remaine in the custodie of the old Sherife, notwithstanding ^{Vide Dyer 335.} the new Letters patents made to the new sherife and the writ of Discharge and the writ of deliuerie directed to the old sherife.

Notice.

Also it was there resolved that the old sherife ought to giue notice to the new sherife of all and euerie the executions, which are against any prisoner in their custodie, although the executions bee of Record; and that the new sherife is not to take notice of them at his perill, but shall bee charged onely with such whereof the old sherife giues to the new sherife notice.

If the old sherife shall giue notice to the new sherife, of the executions which are against any prisoner by word onely, or by some note in writing vnder the old sherifes hand, or vnder the hand of his vndersherife, and not by Indenture, and the new sherife bee content to accept of such notice, it seemeth sufficient, for *volenti non fit injuria*; ^{Co. 3. 72.} And yet the new sherife may compell the old sherife to make such deliuerie by Indenture, and so runne all the writs, ^{Register 295.} *de breuibus & Rotulis liberandis*, in the Register, see hic fol.

Also the new sherife is not bound to receiue the prisoners from the old sherife but onely at the Gaole, and in no other place, as *Hast.* Crompton reporteth: *Crompt. 214.* ^{Crom. 214.}

But

But it was in Westbies case resolved, that if a Sherife hath in his custodie diuers persons in execution, and dyeth in the time of his office, and after a new Sherife is made, here the new Sherife at his perrillought to take notice of all the executions which are against any person which hee findes in the gaole: but this is by reason of the necessitie, for that there is no person to make deliuerie to him of them, or to giue him notice, and besides the new Sherife may take notice himselfe of all executions, they being vpon record.

Also in the afoze recited case, it was resolved, that if a Sherife die in the time of his office, and befoze that another is made Sherife, there if a prisoner who is in execution shall breake the gaole and escape and go his way, yet this is no escape, for that by the death of the Sherife, all his prisoners were in the custodie of the law, vntill a new Sherife bee made; and the prisoner may be taken againe in execution at any time after wherefoeuer he shall be found. Escape.

The forme of an Indenture for setting ouer of prisoners, and writs betweenetwo Sherifes.

THis Indenture made &c. Betweene R.S. Esquire late Sherife of the countie of Cambridge of the one part, and A. B. Knight, now Sherife of the said countie on the other part witnesseth, that the said R.S. by vertue of his Maiesties writ of discharge (of his late office) to him directed, hath deliuered and set ouer vnto the said A. B. these writs following, that is to say, A *Capias versus W. F. return. Of Fab. Hillarij ad sectam Iohannis Smith &c.* Together with the bodies of I. N. in execution at the suit of G. H. for a debt of twentie and two pounds, and I. H. at the suit of C. D. in execution for ten pound, and R. G. in execution as well at the suit of I. Dighton for a debt of one hundred pound, as also at the suit of N. West for a debt of fortie pound &c. In witnesse whereof &c.

All the writs which are set ouer in the Indenture betweene the Sherifes, if they haue beene executed by the old Sherife, then they must be returned by him, and indorsed vnder by the new Sherife thus:

Istud Breue prout indorsatur mihi deliberatum fuit per

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per R.S. Armiger nuper vic' prox' prædecessor meum in exit'
ab officio suo.

A. B. miles vicecom

If the writ of discharge of the old Sherife be brought into the Countie and deliuered to the Clerke of the Countie sitting in the Countie court in the absence of the high Sherife, Quære whether the old Sherife be thereby discharged of his Office ipso facto, or not: it seemed to Manwood and Dyer, that the high Sherifes authoritie ceased by such publike deliuerie of the writ of discharge in the Countie court, where euery man is bound by law to take notice; but yet if by such deliuerie of the writ the old Sherife bee discharged, then there shall be an escape in the old Sherife of his prisoners, against his will, for the old Sherife by indentment, was readie to deliuer them &c. Ideo quære Crompton 203. Dyer 355.

Also by the words of the statute of 12. Edw. 4. cap. 1. it seemeth that the old Sherife may execute his office, untill his writ of discharge be deliuered to him, see also the statute of 17. Edw. 4. 6. & hic postea.

*Apres son
discharge son
act void.*

But if the old Sherife after he is discharged &c. shall make his warrant or precept to any of his (late) Bailifes or Officers to arrest another, and the Officer by force thereof shall arrest the partie, an action of false imprisonment will lie against both the Sherife and Officer for such an Arrest.

The old Sherife returned the Proclamation upon an Exigent, after that he was discharged of his Office, and by the Judgement of the Court the vtlatie was void and the partie was discharged. Dyer 41.

- 5 The Sherife is to read his Patents
and to name his Officers.

*5
He must
reunde his
Patents,*

The high Sherife at the first Countie court which shall happen to bee after his election and the discharge of the old Sherife, must read (or cause to bee read) his Patent and his writ of assistance; and must also nominate his vnder-sherife

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10

Sherife, the Countie Clerke, and foure deputies (at the least) to make repleyns, for the ease of the Countrie; which deputies ought to dwell twelue miles distant one from another, in euerie quarter of the Countie one, to grant repleyns in the Sherifes name, and to make deliuerance of distresses when neede shall require. *And name his Officers.* Vide stat. 1. & 2. Phil. & Mar. cap. 12.

And the Sherife for euerie moneth that hee shall lacke such deputies shall forfeit five pounds &c.

And yet rather than the high Sherifes (being gentlemen of worth) should hazard their oathes, or credit in their Countrie, they had better (in regard thereof, and for their better discharge of their duties both to God, and to their Prince in the execution of their Office) to keepe their Office, and their Undersherife in their houses, so as they may take a continuall suruey themselves, as well of their Office as of their Undersherife, and other Officers, rather than to trust their Officers, especially their Undersherife, being a stranger, with the whole execution of their Office, and upon bond and covenants which by the Statute of 23. Hen. 6. cap. 10. are thought by many opinions to be boide, or voidable at least, (but see more concerning such bonds &c. hic postea fol.) And if those bonds proue not good, then a lewde, or an ignorant Undersherife may hazard the undoing his high Sherife. *Good advise to keepe his Office in his house.*

* See also the stat. 5. & 6. Ed. 6. cap. 16.

And therefore if the high Sherife will sleepe quietly and take his repose in safetie (whether he shall keepe his Office and his Undersherife in his house, or no) he shall doe well and wisely to looke for, and to take good securitie from his Undersherife, before hee doe trust him with his Office; which security is commonly by bonds and covenants taken by the high Sherife, of the Undersherife and his friends; the forme of such bonds and covenants; see hic postea fol.

6 The Sherife ought to haue a Deputie or Atturney in euerie of the Courts at Westm &c.

Also the new Sherife before he shall retorne any writ in- to the Chancerie, the Kings Bench, the Court of common pleas, or the Elchequer, ought to haue an Atturney, or Deputie. *6 He must haue deputies at West.*

23. H. 6. cap. 10.

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Deputie of Record, in euerie one of those Courts of Record, there to receiue all manner of writs and Warrants to be deliuered to them, viz. all such writs and Warrants as shall be directed to the Sherife for whom such Deputie is appointed; and if any Sherife shall doe to the contrarie, he shall forfeit fortie pound (to the King and Informer) for euerie such default, and treble damages to the partie grieved or endamaged.

And it seemeth such Deputies must be made by Warrant of Atturney from the high Sherife: And yet the Sherife may make his Deputie without writing, by the opinion of Brudnell 21.H.7.Fol.37.a. see Hic.

*Wales and
Counties
Palatine.*

Also euerie Sherife of euerie of the twelue Counties of *P. Exig. 7.* Wales, and of the Counties Palatine of Lancaster Chester, and of the Citie of Chester, shall haue in euerie of the Courts of the Kings Bench, and Common Pleas, one sufficient Deputie at the least, to receiue all writs directed to such Sherife, for whom the same Deputie or Deputies shall be appointed, in like manner and forme, and vpon like paines as by the Lawes and Statutes of this Realme other Sherifes of other Shires within this Realme of England be bound to haue in either of the same Courts: And all writs of Proclamation shall be deliuered vnto euerie such Deputie of Record in the same Courts: And also like fees shall be paid for making euerie such writ of Proclamation, and for the inrolling of the same of Record, as is limited in the Statutes of 6. Hen. 8. 1. E. 6. 10. 5. E. 6. 26. 23. Hen. 6. 10.

For that in former times the Sherifes in diuers Counties of England, hauing their Offices, some for terme of yeares of the Kings graunt, and others trusting of longer continuance in their said Offices, were greatly encouraged, and did take vpon them to doe many and diuers oppressions to the Kings people, and euill seruice to the King: Therefore it was ordained and established by diuers Acts of Parlement as followeth.

*Not above
one yeare.*

First, that no Sherife, ^b Undersherife, nor Sherifes clerke, shall tarrie or abide in his office (or shall occupie the said office) above one yeare, vpon paine to forfeit a hundred pounds yearely as long as hee occupieth the office: And euerie

*14. E. 3. c. 7.
28. E. 3. 7.
b 41 E. 3. 9.
23. H. 6. 2.*

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11

*Pardon to
such offen-
ders, gran-
ted 18.Hen.
6. cap. 3.
& 8.E.4.c.4.
by Act of
Parlement.

euerie * pardon made for such offence or forfeiture shall be void; and all Letters Patents made to occupie such office aboue one yeare shall be void, any words or clause of non obstante put into such patent notwithstanding. And whoso-
euer shall presume or take vpon him to occupie the office of a Sherife aboue one yeare, by force of such letters patents, shall be disabled for ever after to be Sherife within any Countie of England: And euerie man which will may sue for the said summe of two hundred pounds so forfeited against such Sherife, Undersherife, or Sherifes clerke, in any action of debt in his owne name, and the King shall haue the moitie of all that which is recouered, and hee that sueth shall haue the other moitie, 23. H. 6. cap. 8.

And yet the King by his prerogatiue may dispence with these statutes, and may grant the office of a Sherife for yeares, life, or in fee, See 2.H. 7. fol. 6. Br. patents, 109. Co. 7. 14. & Co. 9. 97. Br. prerog. 37. & Fitz. Gt. 33. & Plo. 502.b.

Also persons inheritable to the office of Sherife and vndersherife, and other officers in London and Bristow, are excepted out of these statutes. See Hic postea Fol.

13.E.4.c.1.
17.E.4.c.6.
Crompt.
208.b.

But for that the high Sherifes being chosen yeately the moreow after All Soules, diuers of them sometimes haue not their patents, nor take their oathes a long time after. Therefore it was enacted by other later statutes (made in the time of Edw. 4.) that euerie old Sherife of euerie countie shall haue full power, and may occupie his office (scz. may execute and returne any writ, precept, or warrant, from or out of any the Kings courts of Record at Westminster deliuered to him; as also to doe and execute euerie other thing to his office of a Sherife appertaining, during the Termes of Saint Michael, and Hillarie, (after the yeare that their office is ended) vlesse before the same time hee bee lawfully discharged, scz. hath a writ of discharge deliuered him of his office of Sherifewicke: And they shall not be thereof damnified by force of the aforesaid statute of 23. H. 6. cap. 8.

1.R.2.c.11.
23.H.6.c.8.

Also it is ordained that no man which hath beene Sherife Not within
(or vndersherife, of any Countie by one whole yeare, shall three yeares,
be

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be chosen Sherife (or Undersherife) of that countie againe within thre yeares next ensuing, (except there beene none other sufficient of possessions and goods to answer the King and his people within the said countie,) upon paine of forfeiture of two hundred pounds by him that shall occupie his office contrarie to the effect and intent of any of the statutes afoze recited.

But the Sherifes and Undersherifes within the cite of London, and of such counties in which they be inheritable to the office of Sherife, beene excepted out of these former statutes. 23. H. 6. c. 3.

*Must be
resident.*

Euery Sherife shall dwell and continue in his owne person within his bailwicke or countie, for and during the time he shall be Sherife, (except he be otherwise licenced by the King) and this the Sherife is bound to do as well by his oath, as by the statute of 4. H. 4. cap. 5.

Yet if the Sherife being out of his countie shall make a pannel, or make any returne &c. it is good, See 9 Henr 4. fol. 1.

But if the Sherife be beyond the sea (scz. at Calice, or elsewhere) and maketh a pannel, or any returne there, and sends it into England, that is not good, for that hee is no officer but only in England. 9 H. 4. 1.
Br. Officers 7

Note, that a Sherife of one countie hath no authoritie or power within another countie; neither may any other authoritie, within this realm, exceed their limits and bounds: And yet if the Sherife by force of the Kings writ, shall be commanded to carie his prisoner out of his countie &c. and thereupon shall carrie or send by baston, his prisoner to the place appointed him, although he shall conuey him through diuers other counties, yet the prisoner shall be said to be in the custodie of the first Sherife, in euerie of those counties, and so to such a speciall intent, the Sherife shal haue authoritie in another countie. Plo. 37.

So if a prisoner of his owne wrong shall make an escape and fle into another countie, the Sherife or his officers upon fresh suit may take him againe &c. See hic postea fol. Ibid.

No Sherif shall let to ferme his office in any maner, nor ^{Must not let his office.} his countie, nor any of his bailiwicks, hundreds, nor ^{*} wapentakes; And this the Sherife is restrained to do as wel by his oath, as by statut, upon paine to forfeit fortie pound, See the statutes 9. Ed. 2. Lincolne. 2. E. 3. ca. 12. 4. E. 3. ca. 15. 14. E. 3. ca. 9. 4. H. 4. ca. 5. & 23. H. 6. ca. 10. & 6. Ed. 6. cap. 16. And yet the Sherife may make and appoint vnder him his Undersherife, and his bailifes and deputies, for all these do vse their place in the right of the Sherife, but a lessee or former occupieth the place, or things demised, in his owne right. See Fineux 20. H. 7. fol. 12. b. And quære of the forme of the Indentures made at this day betweene the High Sherife and his Undersherife, and how they are warrantable by these statutes.

^{Br. Grants 39.} By the Booke 21. Hen. 7. fol. 36. the countie is but the profits of the countie, and the issues comming thereby, so that for the Sherife to let the profits of his countie, or of any of his bailiwicks, or any part thereof, seemeth forbidden by the former statutes, See Br. Grants 59. & 20. H. 7. fol. 12. a. b. 21. H. 7. 37. & Pl. 87. a.

^{20. H. 7. 12. a.} Now the revenues or issues and profits of the countie pertaining to the office of a Sherif, seeme to be the fees, annuities, rents, fermes, issues, fines, amerciaments, escheats, estranges, &c. But quære whether the Sherife be but to gather by these, and is to bee accountable for these profits to the King, or that he fermeth these of the King vnder the name of viconties, and payeth a rent for them.

Also whether a lease made by the Sherife of his office or countie &c. only by *parol*, be good, or contrarie to these statutes or no, see the booke 20. Hen. 7. fol. 12. & 21. H. 7. fo. 36. pro & contra.

Also for that this statute of 23. Hen. 6. is penall, and euerie penall statute shall be taken strictly, therefore by some opinions, where the Sherife shall let parcell of his countie, or parcell of the profits thereof, and shall reserue part of the profits to himselfe, there he is not within the danger of the statute, except he let the whole; but others hold the contrarie, for that otherwise he might let parcell to one, and parcell to

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to another, and so the statute should bee of little or no effect.

Penall Statutes And accordingly it is obserued by the right honourable and late reuerend Judge Sir Edward Coke, in his eleventh booke fol. 34. That it is frequent in our Law Bookes, that penall statutes haue bene taken by intendment, to the end that they should not be illuzorie, but should take effect according to the expresse intention of the makers of the act, for the aduancement of iustice, and in suppression of crimes and hainous offences.

The authoritie and power of the high Sherife.

The authoritie and power of the Sherife is in some cases Absolute or Iudiciall, and in some other cases Ministeriall.

And first concerning their Absolute power.

*Absolute or
Iudiciall.*

No Sherife shall hold pleas of any thing pertaining to the Kings crowne (by the statute of Magna charta cap. 17.) scz. they shall not hold plee of land, felonie, or trespass &c. See hic fol.

*Magna
charta.*

And yet by the same statute ca. 35. the Sherifes of euery countie may hold their Torne (or Court Leete) in which court they may enquire of treasons, homicides, and other felonies, whereof See hic postea tit. Sherifes Torne, & stat. 52. H. 3. cap. 24. But they shall take no Indictments (by commission procured at their owne suit) but only in their toynes Stat. 28. Ed. 3. cap. 9.

Also the Sherife in his countie court may take a recognisance &c. See hic tit. Countie courts.

*To keepe the
peace.*

Again euerie Sherife is by the common lawes a principall and speciall conseruator of the peace within his countie, and hath committed vnto him the custodie of his countie for the time that he is Sherife, and is to see the peace thereof kept and maintained, And vpon request to him made he may commaund and cause another to find sureties for the peace, and may take the same suretie by Recognisance,

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sance, and that ex officio, Fitz. 81.d. *Pea* all obligations that he takes for the preferring of the peace, or to that end, are as recognisances in Law, *Termes del ley*, tit. Vic.

12.H.7.17. Also if one shall threaten me of life, or member, and that I shall complain to the Sherife thereof, the Sherife may cause him to find sureties of the peace, and may let him in the stocks, quousque &c. 44.E.3. F.Barr.202.

So if the Sherife shall see one assault another &c.

So if any man shall make an assault upon the Sherife himselfe, See 5.H.7.6.

Also when any of the Kings enemies shall come into the land, the Sherife in defence of the realme, may commaund all the people of his countie to attend him; and he and they are to attend the King to defend the land,

Also when any rebellion, insurrection, or riotous assemblie of people shall bee within the land, the Sherife may raise the power of his countie to apprehend such malefactorz, See hic postea.

10.E.3.c.3. Also the Sherife and Coroners are to take suretie (by recognisance) for the good behaviour of such as haue obtained their pardon for any felonie &c. *Scz* they are to take six sufficient mainpernozs (for whom they will answer) that the parties pardoned from thenceforth shall beare themselves well and lawfully; And the mainperises (or Recog.) shall be sealed with their seales and returned into the Chancerie.

1.M.ca.8.

And yet a Sherife ought not to execute the office of a Justice of Peace in the same countie where hee is Sherife during the terme that hee is Sherife: and all and euery acts to be done by any Sherife by authoritie of any commission of the peace during the tyme of his Sherifwicke shall be void and of none effect; but and if he be put into the commission of the peace before he be Sherife; and then he is chosen Sherife, and that commission of the peace continueth after that he is discharged of his office of a Sherife. *Quere* if he may not sit or execute the office of a Justice of Peace by force of that commission; it seemeth

Camp.207.

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meth he may; for first by the statute of 1. Ed. 6. 7. it was orde-^{1. Ed. 6.}
 dained and enacted in these words following, scz. That al-
 beit any person or persons being Ju. of P. ac. shall fortune
 to be made sherife, that yet notwithstanding he and they
 should remaine Justice and Commissioner, and have full
 power and authoritie to execute the same in like manner and
 forme as he or they might and ought to have done before
 the same statute.

After the making of which act, diuers persons being in
 the commission of the peace were also made Sherifes of
 the same countie, and did exercise either of the said offices,
 which seemed not to be conuenient, and therefore it was af-
 ter enacted by the statute made 1. Mar. ca. 8. That no man-^{1. Maria.}
 ner of person hauing, vsing, or exercising the office of the
 sherife of any countie shall vse or exercise the office of the
 Ju. of peace by force of any commission, or otherwise, in any
 countie where he or they shall be Sherife during the time
 only that he or they shall vse or exercise the said office of she-
 rifewicke, any thing in the said former act (made 1. Ed. 6.)
 notwithstanding.

Now the making of a Justice of peace to be Sherife of
 the same countie doth not determine the commission of the
 peace, for then the authoritie of all other the Justices of the
 peace of the same countie should be thereby determined, but
 this seemeth onely to disable the person so being Sherife to
 meddle as a Justice of peace during such time only that he
 shall be Sherife of the same countie, and that the commis-
 sion of the peace need neither to be renewed, nor the late she-
 rife newly swoyne for the execution of the office of a Ju-
 stice of peace, but may againe as before execute that office
 by vertue of the former commission of the peace.

*Arrest fe-
 lons &c.*

But every Sherife (by the common lawes of this realme,
 and by vertue of such his office) may do, and is bound to do
 his best indeauor, for the conseruation of the Kings peace,
 and may and ought to pursue, apprehend, arrest, and impris-
 on all Traitors, Murderers, Robbers, and other fe-
 lons, and all such other as doe breake, or goe about to
 breake or disturbe the Kings peace within his countie,
 and to that purpose the Sherife may take (of that countie
 where hee is Sherife) any number that hee shall
 thinke meet to ayde and assist him: and every man being
 required

required ought to be ayding therein to him; and if any man (being required) shall refuse to aide the Sherife therein, they shall be fined to the king: Br. fines 37.

3.E.1.c.9.

And by the stat. of 3. Ed. 1. cap. 9. upon any felony committed, all men generally shall be ready at the commandment of the Sherife (& at the cry of the countrey) to pursue and arrest all felons (when any need is) as well within franchises, as without; and they which make default & thereof be attain- ted, shall make a grievous fine to the king: and it seemeth the Sherife may attache all persons making such default, to appeare befoze the Justices of Gaole deliuerie, there to answer their said default: Officium Corot' 3. Ed. 1.

Also the Sherife may and ought to arrest and attach such felons so apprehended or taken, and ought to imprison them in the Gaole (as it seemeth) till the coming of the Judges: 3. E. 1. cap. 9. & 4. E. 1. Officium Corot'.

See more in my Countrey Iustice tit. Forcible Entrie & tit. Arrest.

Also sherifes (ex officio) may arrest within their Countie, *Suspected* all persons by them suspected which shall walke by night or *persons.* day, and which are of euill name or fame; and they shall commit such offenders to the Gaole, there to remaine untill the coming downe of the Justices assigned to deliuer the Gaole: 5. E. 3. cap. 14. Crompt. 203.

Quare, If the Sherife may not put such suspected persons vnder common mainprize, binding them with two sufficient sureties by recognizance to appeare befoze the Justices at their next Sessions or Gaole deliuerie, and to certifie the same recognizance befoze the said Justices accordingly: euerie Sherife in Wales may doe this by the statute 34. H. 8. cap. 26.

5. E. 3. c. 14.

Also if any other person shall haue any suspicion of such night walkers, or other persons of euill fame, they may arrest them, or cause the Constable to arrest them, who shall deliuer them to the Sherife, and the Sherife ought to receiue them, and shall enquire of such offenders, and shall returne their enquests befoze the said Justices of Gaole deli- uery, with that which they haue found, and the cause of their

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said arrests, together with their bodies : and in case that the said sherife hath not enquired of such arrests , they shall be amerced : See Hic antea fol.

*Persons in
Armour.*

Also euerie sherife (within his Countie) may and ought to arrest all such persons as goe or ride armed offensively, either in the presence of the sherife , or in faires or Markets or else where in affray of the Kings people , and may commit them to prison, there to remaine at the Kings pleasure (scz. vntill the Kings Maiestie hath signified his pleasure of them : Or that the Kings Iustices, before whom such offendours shall be conuict shall deliuer them :) and also the Sherife may leise and take away their armour to the Kings vse, and prise the same by the oathes of some present: See my Countrey Iustice, tit. Armour & Baylement.

2.E. 3.c. 3.
Northampton. Crom.
103.

And yet they themselves (scz. the Sherife and his officers) may lawfully beare armour and weapons : See Hic posse comitatus.

The Sherifes in Wales may put euerie mistrusted and suspect person within their sherifewicke, vnder common maineprise and suretie of their personall appearance, and that by recognisance with two sufficient sureties, to appeare before the Iustices within the limits of their authoritie, at the next generall Sessions to be holden next after the taking of such bonds, & shall certifie the names of them that be bound before the said Iustices at the said sessions, without co- tealement therof. See the stat. of. 27.H.8.c.26. & 34.H.8.c.26.

*Weapons from
seruants.*

Sherifes may and ought to take from seruants (to husbandrie, & from seruants to any artificer) as also from labourers & victuallers, their swords, daggers, & other weapons, if they shall find them bearing any : except it be in time of war for the defence of the Realme, or when they bee travelling with their master, or in their masters message : and the sherife may and ought to arrest such offendours, & it seemeth he may commit them to prison there to remaine vntill the next Sessions of the peace or Gaole deliuerie : See before the stat. 2.E.3 cap.3.

11.R. 1.c.6

Also the Sherife shall keepe their said weapons vntill the next Sessions of the Iustices of the peace, and shall then and there present the said weapons, together with the names

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names of those persons which did so beare the same weapons.

23. H. 6. c. 14

If any Noble mans, or other subiects Catoz shall (by *Puruey or del subiect.*) way of puruepance) take any mans goods, or any carriage, against the owners will, vpon notice thereof, and request made to the Sherife (or other officer) they shall presently arrest all such Catozs and buyers so offending, and shall send them to the Kings next prison, there to remaine without baile, vntill they haue redeliuered the said goods, carriages, and things so taken, or the verie value of the same: And if the said Sherife (or other officer) shall doe the contrarie (scz. shall not assist the partie oppressed in such case) they shall forfeit twentie pounds, the one halfe to the King, and the other halfe to the partie from whom such things be so taken (if he will sue for the same, and if he wil not sue, any other may sue for the King and himselve, &c.) And besides if any such Catozs or buyers bee duely conuict of such vnlawfull taking, they shall yeeld to the partie grieved the treble value of the things so taken, and double costs of suit, and withall shall make fine and ransom to the King.

17. R. 2. c. 8.

By the statute made 17. R. 2. cap. 8. Sherifes (and all other the Kings officers) when they haue notice of any vnlawfull assembly or riot, ought to raise the power of the countie (if need be) and with all their power to apprehend such malefactorz, and to commit them to prison, there to remaine vntill due execution of the Law bee done vpon them: And all Lords (of signories) and all other the Kings leige people, ought to be attendant to the Sherife and other officers with all their power and force herein.

Riotors.

23. H. 4. 7.

And by a later statute made 13. Hen. 4. If any riot or vnlawfull assembly shall bee made in any part of the Realme, the Iustices of peace (or two of them at the least) and the Sherife or Undersherife (of the countie where such riot or assembly shall be made) shall come with the power of the countie (if need be) and shall arrest all such offenderz, as they shal find there present (& all such as come in the compagnie with such riotors:) And shall take away their weapons and armour, and shall cause the same to be prised, and to be answered to the King as forfeited, See the stat. of Northampton, made Añ. 2. E. 3. cap. 3.

Arrest.

2. E. 3. c. 3.

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And

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17.R.2.c.8.

By the statute made 17. R. 2. cap. 8. Sherifes (and all other the Kings officers) when they haue notice of any unlawfull assembly or riot, ought to raise the power of the countie (if need be) and with all their power to apprehend such malefactorz, and to commit them to prison, there to remaine vntill due execution of the Law bee done vpon them: And all Lords (of signories) and all other the Kings leige people, ought to be attendant to the Sherife and other officers with all their power and force herein.

Resolers.

13.H.4.7.

And by a later statute made 13. Hen. 4. If any riot or unlawfull assembly shall bee made in any part of the Realme, the Iustices of peace (or two of them at the least) and the Sherife or Undersherife (of the countie where such riot or assembly shall be made) shall come with the power of the countie (if need be) and shall arrest all such offenders, as they shal find there present (all such as come in the compagnie with such riotors): And shall take away their weapons and armour, and shall cause the same to be prised, and to be answered to the King as forfeited, See the stat. of Northampton, made Añ. 2.E.3.cap.3.

Arrest.

2.E.3.c.3.

D 3

And

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And in the execution of this arrest of riotors, the Sherife, &c. may iustifie the beating, wounding, or killing of any of the riotors, if they shall resist, or will not yeeld themselves.

Record.

After the arrest made of such riotors, the said Justices ^{13.H.4.c.7.} and Sherife or Undersherife shall make a Record in writing of the said riot, scz. of all that which they shall find or see done in their presence against the said Law without any enquire therof by a Jurie and such a Record shall be a sufficient conviction of the offendors.

Imprison.

After such Record made of the riot, the said Justices and ^{Crom. 61.b.} Sherife or Undersherife shall presently commit the offendors to prison: And also may assele their fines (or else they may leaue that to the Aldres or Sessions, &c.) And the power of the countie ought to bee ayding to the Sherife or Undersherife for the conueying of the offendors to the Gaole.

And if this statute of 13 Hen. 4. be not executed fully in all and euerie part thereof by the Justices of peace, and by the Sherife or Undersherife, scz. If they shall not arrest all such offendors as they shall find there present: Or if they shall not make a Record in writing of all that which they shall see done in their presence against the Law; Or if they shall not commit the offendors to the Goale (presently:) Then as well the two next Justices of peace, as also the Sherife or Undersherife shall forfeit each of them one hundred pounds, Crompt. 61. b.

Inquire.

If the riotors be gone before the comming of the Justices ^{13.H.4.7.} and Sherife, then the same Justices, or two of them, ought diligently to enquire thereof (by a Jurie to be returned by the Sherife) within one moneth after such riot or unlawfull assembly made: and if the truth cannot be found out, then within one moneth next ensuing after the enquire, the same Justices (or two of them) and the Sherife or Undersherife shall certifie the King and his Counsell thereof, which Certificate shall bee made into the Star Chamber, or to the bodie and board of the priue council, or into the Kings Bench of the whole fact, and all the circumstances thereof, with the certaintie of the names of the principall offend-

Certificate.

<sup>Lamb 319.
Crompt. 63.</sup>

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offendours) which certificate shall bee of the force of an Indictment of twelve men against the offendours: See 13. H. 4. cap. 7.

23. H. 4. c. 7.
Dyer 210. And for default of the Justices of Peace and Sherife or Undersherife in not making such certificat, as well the two next Justices of Peace, as also the Sherife or Undersherife shall forfeit each of them one hundred pounds to the King.

39. H. 7. c. 13. And if the said Ryot or unlawful assemble be not found by reason of any imbracery or maintenances of the Jurie, then the said Justices of Peace, and the Sherife or Undersherife (ouer and besides such certificat which they must make, according to the aforesaid statute of 13. H. 4.) shall in the same certificat also certifie the names of such maintainors and imbracers, with their misdemeanors that they know, upon paine of every of the said Justices and Sherife or Undersherife to forfeit twenty pounds, if they haue not reasonable excuse for their not certifying of the same.

Lamb. 310. If after the enquire, and before the certificat made, the Sherife happen to die, or one of the Justices be put out of the commission, then no certificat can be made by the opinion of master Marrow.

But quare therof in regard of the penalties inflicted by the statute aforesaid. See more in my Countie Iustice titulo Ryors.

3. E. 1. c. 32.
Poulton. No Sherife shall suffer any Barretours, or maintainors of quarrels in their shires: This statute seemeth to be heere falsly translated, scz. the last word (Shires) for Countie Courts; for the old French statute booke is in these words, *Puuiens est que nul Viscount ne souffre Barreleur maintenir parols en Counties*: And the title ouer the statute is thus, *Queux devient fere les Iudgements en Counties ou Court de Baron*: And therefore this Statute seemeth to bee onely a prohibition to the Sherife not to suffer any Barretours to maintaine any actions, suites or quarrels in their Countie Courts; scz. that sherifes in their countie courts shal not suffer any person by fraud or malice to maintaine multiplicitie of vniust and fained suites there, nor to sit by others thereunto. See Hic postea titulo Countie Courts.

Barretours.

If

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*Disturbers
of the sherife*

If the Sherifes bailife shall retorne a disturbance of the execution of the Kings proces, the Sherife shall forthwith go in person (taking with him the power of the shire) to doe execution; and if he findes his bailifes false he shall imprison them, and if he findes them true, he shall punish the resistors by imprisonment, from whence they shall not be deliuered without the Kings speciall commaundement: And if the Sherife doe find such resistance when he cometh, he shal certifie to the court the names of the resistors, their aiders, consenters, commaunders, and fauourers, and they shall be attached by a writ out of the court to appeare there &c. But it may seeme by the wordes of the statute, that the Sherife shall not punish such resistors (as he findeth) himselfe: for the wordes of the statute are further thus, Neither shall any officer of the Kings meddle in assigning the punishment, for our Lord the King hath specially reserued it to himselfe, because that resistors bene reputed disturbers of his peace, and of this realme. And yet quare if the Sherife may not arrest and imprison such offenders or resistors (as he shall find himselfe) as breakers of the Kings peace, and so to haue their bodies forth coming and readie to appeare in the Kings court when proces shall come out against them; or that these wordes of the statute shall be only intended of such consenters, commaunders, and fauourers as were absent, that they shall be attached by writ &c. Or that the meaning of the statute be, that the Sherife may arrest and imprison such offenders, as he himselfe shall find, but may not inflict any fine, or assigne any other punishment vpon them; for the wordes of the statute are further, that if the Sherife shall retorne (into the court) that he could not execute the Kings proces for resistance, he shall be amerced, for he should haue taken the power of the countie to haue aided him therein, and that such returnes of the Sherife redounds much to the dishonour of the King.

Amerced.

*Posse comi-
tatus.*

And note wheresoeuer the Sherife (or any other of the Kings officers) may take posse comitat^{us}, either to execute the Kings proces, or to apprehend felons, riotors, or other breakers of the Kings peace, if the Sherife, or other officers, shall find resistance therein, it seemeth they may arrest and imprison (for a time at the least) all such resistors, and other such offenders, which they shall find there present: See my

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my Countrey Iustice titulo Arrest and Imprisonment.

2.E.4.f.6.
21.H.7.39.

Also whersoever the partie against whom any lawfull proces, writ, or warrant is graunted, shall after he is arrested, or other execution of such warrant done, make resistance, or shall make an assault vpon the officer, there the officer may iustifie the beating and hurting of him, and of all other that shall disturbe the officer in the execution of such proces, writ, or warrant, and may also imprison him and them (in the stocks) for the same, See Br. Trespasse 218. & 296.

And if the sherife, or his bailife, or other officer commeth by vertue of the kings proces, or other lawfull warrant to arrest another for debt, or trespass &c. who maketh resistance, and thereupon is slaine by such officer, or by any of his companie, this hath been taken to be no felonie, but iustifiable. See Fitz. Coton 261. Doctor & Student 133.b. Crompt. 24.a. 30.b. Tamen quare what the law is at this day, in this last case.

Sherifes also may baile their prisoners in diuers cases, *Baile prisoners.*
See hic postea tit. Bailement.

13.R.2.c.8.

Sherifes haue the keeping and correction of the assise of bread and ale, scz. they may in their Corne inquire of the assise thereof broken, but if they vpon inquirie shall find any to be defectiue, they shall take no amerciamment or fine for any default touching the assise, for the which such an offendor ought to haue bodily punishment by the law; but (by the statute made anno 13.R.2.cap.8.) they shall adiudge them to that bodily punishment which the offence requireth, and shall do due execution thereof. *Assise of bread &c.*

Stat. 51.H.3

And by the old statutes and customes bled in this behalfe, the Baker and Brewwer for their first offence in breaking their assise, they shall be amerced, for the second offence likewise amerced (according to the offence,) for the third offence they shall be more grievously amerced and warned; but if they shall offend in breaking of the assise the fourth time (being therof conuicted by order of law,) then they shall receiue corporal punishment vpon the pillorie, or some other bodily correction, without any redemption either by gold or silver: And if the baker doth exceed (in breaking the assise of his

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his bread) the full weight of two shillings six pence (which is one ounce and an halfe) in his farthing white loafe, then he shall suffer the indgement and punishment of the Pillorie without any fine or admonition giuen to him; vide the statute of the Pillorie and Tumbrell made Anno 51. Hen. 3. and another statute Incerti temporis cap. 2. & 6. Poulton Statutes at large page 17. 111. & 112.

But now by the statute made Anno 1. Edw. 4. cap. 2. the ^{1. E. 4. ca. 2.} sherife (of himselfe, without proces, or estreats, to him deliuered from the Justices of peace) hath no power to punish any offendour, (as it seemeth) or to leuie any Amerciaments vpon any presentment, or Inditement, taken before him in his Corne, but all such presentments, and Inditements, are first to be deliuered by the sherife, to the Justices of Peace of the same Countie and the offendours to bee proceeded against by the said Justices, and then the Justices are to make out processe for the attaching of such offendours, and for the leuying of such amerciaments &c. and to deliuer estreats to the sherife to leuie the same thereby: see hic postea titulo Sherifes Torne.

*To Enquire
of Wast.*

In a writ to enquire of wast as also in a writ of Redisseisin, the sherife is both a Judge, and an officer, of Record, <sup>11. H. 4.
7. H. 4. fol. 4.
Br. Offic.
42. 34. 37.
42.</sup> & therefore if he shall make a false Retorne therein, the party cannot contradict it; and if the land lye in a franchise, the sherife cannot make his warrant to the Bailife of the franchise, or Retorne mandauit balliuo &c. For he cannot graunt ouer his Iudiciall power, but he must enter the Libertie, and execute the writ himselfe, otherwise it is Error.

Redisseisin

Upon a writ of Redisseisin directed to the sherife, if the ^{20. H. 3. cap. 3.} sherife by Inquisition thereof taken before him, shall find the disseisee to bee disseised againe &c. then the sherife shall presently take such disseisors, and commit them to prison, there to remaine at the Kings pleasure &c. and not to be deliuered without speciall commaundement: For in case of Redisseisin, the sherife is made and appointed to be a Judge (by this statute of Merton) And all his proceedinges by force of the said statute of record &c. Co. 6. fol. 12.

Natiuo habendo.

Also in a Natiuo habendo, if it goeth to the sherife to hold ^{Br Offic. 36} plee of the matter, there he is Judge and Officer; but where it is directed to the sherife retornable in Banco, there hee is but

but an officer and not Judge, See hic postea tit. Countie Court.

Note that in a writ to inquire of waste, as also in a writ of Redisseisin, directed to the Sherife, whereby he is made a Judge of the cause, the Sherife must sit and execute the same in proper person as it seemeth and not by his Under-sherife or other deputie; neither ought he to write &c. to the bailife of a franchise, but must do it himselfe.

Thus much concerning the Sherifes absolute authoritie, and now it followeth to treat of his ministeriall due-
tie &c.

And note that both these his authorities (or dueties) seeme to be impled in the Saxon word *Schire Reeue*, id est, *le Reeue del Shire*, which is as much as *Præpositus comitatus*, the Ruler or Gouvernor of the countie (See Co. 9. 49.) importing his absolute power, Or *Balliuis*, or *Thesaurarius comitatus*, the King's bailife, or Treasurer of the countie or shire, importing his ministeriall duetie, it being part of his duety to gather by the common moneys and profits &c. of the King within his countie.

The word *Reeve* being a Saxon word signifieth as much as a bailife; And as a bailife is one which hath authoritie to gather by rents, amerciaments, and other dueties &c. and to do other businesse belonging to a manor, so the Sherife hath authoritie to do for the King in his countie as aforesaid, (sc. to gather by the common moneys and profits, and to do and execute other common businesse).

The word *Bailife* came in with the Normans, See the Termes of the Law.

The Office of Sherifes.

The Ministeriall Authoritie, Dutie, or Office of the
Sherife, consisteth principally in these
things following.

- 1 **T**ruly to keepe the Kings rights of his Crowne, His Oath.
within his Countie: scz. the Kings Lands, Fran-
chises, Suits, Rents, and other things. See his Oath.
- 2 **T**ruly to gather (and bring into the Exchequer) the
profits and moneys due to the King within his Countie
or Bayliwicke: scz. the Kings Rents, fermes, Debts,
Fines, Amerciaments, Fines and forfeitures,
- 3 **T**o seise to the Kings vse the goods of felons attain-
ted, and of fugitives, and of persons vtlawed, Treasure
troue, wayfled goods, &c. Deodays, Estrays, Wrecke
of the Sea, Whales, Elcheats, Wards, and Lands of
Ideots.
- 4 **T**ruly to accomplish and execute all manner of writs,
Processe, Judgements, Executions, and Precepts di-
rected to him from any of the Kings Courts.
Duely to Returne all such writs, &c.
To impannell Juries.
- 5 **T**o be attendant vpon the Judges in their circuits, &c.
And to execute all their lawfull commandements, &c.
- 6 **T**o assist the Iustices of Peace in his Countie: scz.
in some Cases { **T**o ioyne with them,
To attend them,
To execute their Precepts, &c.
- 7 **T**o execute the precepts of commissioners of Sewers,
and other commissioners.
- 8 **T**o execute the precepts of Elcheators, and Coroners.
- 9 **T**o assist the Ordinarie, in suppressing Heresies.

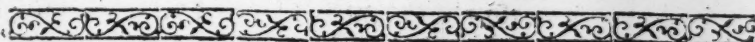
10 Duety to keepe his Courts : scz.

his } Courne ; in this the Sherife is a Judge of
Recozd, and so hath a Iudiciall Power.
Countie, oz Shire Court.

11 To proclaime certaine Statutes, &c.

12 To make Purueyances for the king in some Cases.

Of all these see moze fully hereafter in this Booke.



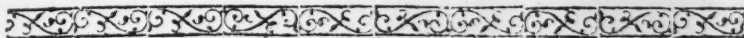
Lands.

It is parcell of the Sherifes Oath, truely to Lands.
keepe the kings rights of his Crowne, scz.
his lands, &c. Now the kings lands, be ra-
ther the ancient *Demesne* lands belonging to
the Crowne : oz else such lands wherein the
king hath right, as descended to him from his Ancestors,
oz of his owne seisin, purchase, oz getting.

Fitz. 16 d.

Note that the Booke which is called *Domesday*, was
made in the time of Saint Edward the Confessor, and all the
mannors and lands which were in the seisin and hands
of the said Saint Edward, at the time of the making of the
said Booke, are auncient *Demesne*, and were aunciently be-
longing to the Crowne.

But quære what the Sherifes Office oz Dutie is in this Quære.
particular ; oz what the Sherife by vertue of his Oath
stands bound to doe, moze than to certifie the king, oz some
of his Council, if he knoweth of any such of the kings lands
within his Bayliwicke, to be concealed oz withholden,



Franchises.

And it is parcell of the Sherifes Oath to keepe the Franchises.
kings franchises ; and therefore the Sherife is to
seise for, and to the kings vse these things follow-
ing, as franchises and Royalties belonging to the king by
his Prerogatiue.

C

I He

Franchises.

The profits of the lands, &c. of Aliens.

The profits of such lands } Attaindor,
as come to the King by } or
Escheate.

But it seemeth in the former cases, for the profits of those lands there must bee first an Office found for the King; scz. to inquire and find the certaintie what lands they haue, and the yearely value thereof, &c.

1 He is
to seise to
the kings
vse

The profits of the lands of persons outlawed in personall actions, these the Sherife may seise without any Office, &c. 21. H. 7. 7. a.

And so it is concer- } Felons.
ning the goods of } Fugitiues.
Egyptians.

Wayued goods, and goods confiscate, &c.

See more particularly of these, hic postea.

Note that to lands and hereditaments, the King is intituled onely by matter of Record; but for personall and transitorie things, as Catalla Felonum, & Fugitiuorum, Wrecke of the Sea, Treasure troue, and the profits of the lands of persons outlawed in personall actions, the King shall be intituled thereto without any office, or other matter of Record, 21. H. 7. 7. a. Stamf. Perk. 5. 6.

And therefore for seising of lands, the Sherife must bee well aduised that he hath the Kings writ, or other lawfull Warrant or Commandement from the Kings Courts or Justices so to doe, least otherwise hee prouoe a disseisor: See 17. E. 2. F. ass. 373. 2. ass. pl. 9. & Co. 8. 169. 170. Br. Prerog. 91.

But for goods and chattels, &c. the Sherife may seise them, for they doe best in the King without any Office, &c. 24. E. 3. Br. Prerog. 30. & 38. 21. H. 7. 7.

2 Where any franchise shall bee seised into the Kings hands, the King shall bee answered the profits thereof, and the Sherife is to seise such profits to the Kings vse: (Br. quo Warr. 5. 7.)

as

- The libertie of a cite, or towne corporate, that haue consufance of plees, or other franchise.
- as The office of the warden of the fleet, or of other gaoler of fee.
- The libertie of Lords of Manours, which haue Hundreds, or Leets, Faires, or Markets, Waifes or Estraies.

3 The King shall haue by his Prerogatiue all such things wherof the owner, or propertie is not knowne, and that according to the old rule, *Quod non capit Christus, capit filius*,

- Tithes of a ground which is within no parish (as in great forests &c.) the King ought to haue such tithes, 22. ass. p. 75. Fitz. Jurisd. 31. Br. Prærog. 143.
- Estraies, waived goods, wrecke, treasure troue, &c.
- as Whales, Sturgeons, &c.
- Swans that be wilde, vnmarked, and abroad at their libertie, the Sherife may seise them &c. Co. 7. 16.
- And by Gascoine, 8. H. 4. all such goods in England in which no man hath propertie, shall be adiudged to the King by his Prerogatiue, and the same law is of land, and the like. Br. Prærog. 12.

4 Also in some cases the King shall haue a fine for the misuler of a franchise &c. Br. Franch. 14.

Nota que franchise allow in quo warranto, ou in Eyre, her le Roy. Regule. Br. Franch. 32. 40.

Co. 9. 17. b.
29. 2.

Bona felonum, fugitiuor, & vtlag. et consufance de plees, home ne poit auer ceux per prescription, mes tantum per charter & graunt le Roy: Et vncore si tiel charter soit allow in Eyre, semble que apres poient prescribe in eux per aide de tyel allowance.

Market, Faire, Hundred, Leet, Warren, & Parke, home poit auer ceux per prescription, et s'ils vient al maines le Roy, vncore ne serra extinct.

Mes nota que nul poit a ce iour, faire Parke, Chace, ou Warren sans grant le Roy, Co. 11. 86.

Franchises. Suit.

*Wrecke, Estray & wayued biens, home poes auer ceuz per prescripti-
on, & sans charter, ou allowance in Eyre.*

*Nota que bona felonum, fugitiuorum, & vtlag', & bona waita-
ta, extrahura, & wreccum maris, si ceuz vient al maines le Roy, ils
serra extinc't, & merge in le Corone, & le Roy auera euz auere, in iure
Corone. Co. 9. 25. Vide Plo. 2 19. a. & 238. b.*

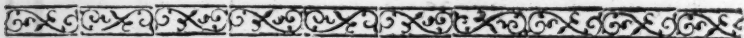
*Ou franchise serra parde, & serra seisie pur default de apparence
in quo warranto, Br. quo war. 5. 7. 9. 11.*

*Ou Franchise serra parde, pur non user, ou misuser, vide Co. 9.
50. Br. Franch. 14. 22. & quo warrant' 8. 9.*

*Ou Franchise seisie in maines le Roy, poiz estre replemie: Br. quo
warrant' 5. 7. & 11. Mes ceo semble destre le grace le roy de grantier
Repleuin de euz, & nemy del droit, Plo 372. a.*

*Ou franchise ne poez estre graunt ouster. Br. Franch. 38. & quo
warr. 6. 8.*

**But note where the Lord of any libertie, oz manor &c.
hath by charter and graunt from the King, oz by lawfull
prescription, any of the franchises oz profits &c. here aboue
mentioned, there the Sherife, nor his officers, are not to
seise them, oz meddle therewith.**



Suit.

Suit.

**Also it is parcell of the Sherifes Dath truely to
keepe the Kings suits: and if they been concealed,
oz withdrawn, the Sherif vpon knowledge there-
of, must cause them to bee done, oz restored againe to the
King.**

**This seemeth to be meant of suit done, oz due to be done,
to the Kings Courts; and to this purpose there are two
sorts of suits, scz. Suit reall, and Suit seruice.**

Royall.

**Suit Reall (oz Royall) is a suit which is due to the she-
rifes**

rifes Corne, or Leet &c. (which are Courts Royals, viz. the Kings Courts,) And to these Courts all men shall be compelled to come, to learne and know the lawes, so that they may not be ignorant of things that shall be there declared and given in charge, and whereby they shall be governed. And it is called Reall Suit because of their allegiance, and this appeareth by common experience, when one is sworn (in those courts to the King, and as in those courts all men ought) his oath is, that he shall be a loyall and faithfull subiect to the King. And this suit is not due for their land which they haue or hold, but it is due *ratione del' resiance del' person*, by reason of their dwelling and abroad within the Hundred or Leet.

Ibid.

Suit Service, is a suit which is also due to the Sherifes *Service*. Corne or Leet twice a yeare: (or to the Lords Court, from three weekes to three weekes, by the whole yeare:) And this suit service is due by reason of the tenure of a mans land.

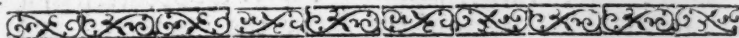
Br. Suit 2.6.

Pur suit reall, le partie que fait default serra primes amerce, Et apres serra distraine pur le amerciement.

Pur suit service le Vicount (ou Seignieur) poit distraine le tenants, mes ne amercera luy. Br. Suit 2.6.16.

Ibid.

Si le terre charge one suit, veigne in maines de diuers persons, chescun tenant serra charge del' suit aperluy, scz. chescun de eux fera vn suit.



Rents.

The Sherife also by his oath is bound not to assent *Rents*. to decrease, to lessing, ne concealement of the Kings rents, and whensoever he shall haue knowledge that any of them beene concealed or withdratone, he shall do his true power to make them to be restored to the King againe; and if he cannot do it, he shall certifie the King, or some of his counsell thereof &c.

Note that the Sherife is *Balliuus comitatus* (as I said before)

Rents.

before) and his countie is also called his bailiwick; and as a bailife of a manor is to gather up his Lords rents and other duties, so the Sherife his office is to gather up not onely the common moneys and profits due to the King within his countie, but also to gather up the Kings rents within his bailiwick (as it seemeth and for which he may distrain. See Fit. 234.h But at this day this rather belongeth to the office of the Kings Receivers &c.

By the word Rents, seemes to be meant not onely Rent seruices and Rent charges &c. (due to the King) but also Fermes or Ferme rents due to the King: sc. Rents reserved in fee ferme, or upon leases.

You shall find by the statute made Anno 51. H. 3. de Scaccario, that Sherifes might let to ferme, the Kings wards, and elcheats, and were answerable for the Rent &c. 51.H.3.

Also by the statute made 10. Edw. 1. de Scaccario, it appeareth that Sherifes are accountable yearely in the Exchequer for the fermes of Serieanties and Asserts, the fermes of Cities, Boroughs, and Townes, and other fermes &c. 10.Ed.1. Quare what these be.

The fermes of Asserts, seemes to be rent reserved and payable for woods growing in forests, sc. for such woods as are thickets or covertes of the forest, and plucked or stubbed up by the rootes. Manwood
Minsh.

Also by the statute of 14. Edw. 3. cap. 9. it appeareth that the Sherifes did ferme of the King the Hundreds and wapentakes. 14.Ed.3

Also by the statute of 1. Hen. 4. cap. 11. it appeareth that the Sherifes were charged with the auncient fermes of the Counties; and that they fermed the Counties of the King. Quare what these fermes of the Counties and of the Hundreds are. 1.H.4;

See also the statute of 2. & 3. Ed. 6. cap. 4. of fermes, and vicountiells, &c. due to the King and withholden from him.

Note that there be certaine fermes called vicountiells, which the Sherife for his time paieth a certaine rent for, to

The Kings Debts.

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to the king, and maketh what profit hee can of them: see the statute aboue mentioned of 14. E. 3. c. 9. & 1. H. 4. cap. 11. and the statutes of 4. Hen. 5. cap. 2. & 2. & 3. E. 6. cap. 4. and quare what these fermes be.

2. H. 7. 6.

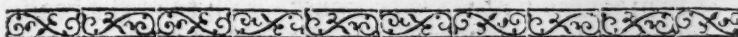
By Brian and Ratcliffe, the sherife so soone as he is made sherife, is accountable to the king, of all fermes, Rents, Issues and Profits of the Countie, which runne in account vnder the name of Vicountiels: But for the Extreats of the greene Ware, and such others, the sherife is not chargeable as sherife at the first, nor at any times after, except that the *summes come to him out of the Exchequer, and then when he hath them, he is chargeable and accountable.

* scz. le
frecars del
hommes.

What the Reuenues, Issues and Profits of the Countie be: see 20. H. 7. fol. 12. hic antea fol.

Nota que si home tient del Roy, & son Rent est arere, le Roy (ou ses Officers) poient distreindre in les auters terres, cybien tenus de auters, come de luy mesme: Et eadem lex pur son fee Ferme. 44. E. 3. Br. Prerog. 77. & 13. H. 4. 6. Plo. 239. a.

Et isint est pur Rent charge, Roy poet distr. pur ceo in tous auters terres. 13. H. 4. Br. Prerog. 68.



The Kings Debts.

9. H. 3. c. 8.

Plo. 440.

In the statute 9. H. 3. cap. 8. the king nor his Bay- Debts.
life, shall not seise any land or rent for any debt,
as long as the present cattells of the debtoz doe Land.
suffice to pay the debt, and the debtoz himselfe be
readie to satisfie therfore. Neither shall the pledges of the
debtoz be distreyned, as long as the principall debtoz is suf-
ficient for the payment of the debt: and if the principall deb- Sureties.
toz faile in the payment of the debt, hauing nothing where-
with to pay, or will not pay where hee is able, the pledges
shall answere for the debt: and then if the pledges will,
they shall haue the lands and rents of the debtoz, vntill
they be satisfied of the debt, which they before payed for him
(except that the principal debtoz can shew himselfe to be ac-
quitted against the said suretie) Fitz. 137. c.

But

The Kings Debts.

But now by the statute of 33. H. 8. ca. 39. not onely the land, but also the heire of the Kings debtoꝝ are chargeable to pay the kings debt. *Pl. 440.*

Also by the same statute of 9. H. 3. cap. 18. *9. H. 3. c. 18.* If any that holdeth of the king any Lay fee doe dye, and the Sherife or Bayliffe doe shew the kings Letters Patents or Summons for Debt which the dead man did owe unto the king, it shall bee lawfull to the Sherife or Bayliffe to attache and inroll all the goods and cattells of the dead, being found in or vpon the Lay fee to the value of the same debt by the sight of lawfull men: So that nothing thereof shall bee taken away, vntill the king bee cleerely payed of the debt, and the residue shall remaine to the Executors to perfoꝛme the Testament of the dead, &c.

*Roy ferrapri-
mes pay.*

Afterwards by the Statute De districtione Scaccarij, *51. H. 3.* made Anno 51. Hen. 3. forasmuch as the comminaltie of the Realme had sustained great damages by the wrongfull taking of distresses, which had bene made by Sherifes, and by other the kings Bayliffes for the kings debt, or for any other cause: it was therefore prouided and ordained, That when a Sherife, or any other man (vpon proccesse out of the Exchequer) doth take the beasts of other by way of distresse for the kings debt, &c. they to whom the beasts do belong may giue them their feeding without disturbance so long as they be impounded without giuing any thing for their keeping.

*The owner
may feed his
cattell im-
pounded.*

*No sale with-
in fifteene
dayes.*

And that the beasts, nor no other distresse taken for the kings debt, nor for any other cause bee giuen ne sold within fifteene dayes after the taking: See Br. Distress. 32. & 72. *Ibidem.*

And if any bring the tallie of a paiement made in the Exchequer, the distresse shall cease: and if hee bring the tallie of any Sherife or Bailiffe, of paiement made to them of the thing demaunded, and will find pledges that hee will appeare in the Exchequer vpon the next account to doe as right shall require, then the distresse shall cease, and the Sherife or Bailiffe shall cause him to bee attached *Ibidem.*

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attached that ought to haue acquitted him, that hee may appere vpon the same account to doe as right shall require, and there shall haue the names of the pledges.

51. H. 3.
Sec 28. E. 1.
c. 12.
Fitz. 174. b.
P. distr. 8. 11.

Also it is provided by the same Statute, that no man of Religion nor other, shall bee distrained by his beasts that gayne his land, nor by his sheepe for the Kings Debt, nor the Debt of any other man, nor for any other cause by the Kings or others Bailifes, but until they can find another distresse or cattells sufficient, whereof they may leuie the Debt, or that is sufficient for the Demaund (except impounding of beasts that a man findeth in his ground, Damage fesaunt, after the vse and custome of the Realme:) and that such distresses bee reasonable after the value of the Debt or Damage according to the value, and by the estimation of neighbours, and not by strangers, and not outragious: Howbeit the king willeth and commaundeth that Sherifes, or their Bailifes that haue receiued the Kings Debt of the summonses of the Exchequer, and haue not acquitted the debtors thereof at the next account, shall bee punished.

*Cattell not
distrainable.*

*A distresse
shall be rea-
sonable.*

*Le vic. ac-
quitera le
debtor.*

28. E. 1. c. 12

Also by the Statute of 28. Edw. 1. no distresse shall bee taken of Plow cattell for the Kings Debt, &c. And such distresses shall not bee ouer great, nor driuen too farre.

51. H. 3.

By the Statute De Scaccario, made Anno 51. Hen. 3. It was ordained that all the Iusticers, Commissioners and others should from thencefoorth deliuer into the Exchequer at the feast of Saint Michael from yeare to yeare the Extreats of Fines, and Amerciaments made and taxed befoze them, and of all things whereof the Extreats are wont to be deliuered there: and that they of the Exchequer shall make Extreats of the summonses through all Shires, &c.

*The Kings
debts.*

*Extreats of
Fines, &c.
shall be deli-
uered in the
Exchequer.*

3. Edw. 1. P.
Account. 52

Also by the Statute made, 3. Edw. 1. cap. 19. It was ordained that Sherifes, &c. (which haue leuied or receiued the Kings Debt) should from thencefoorth lawfully acquite and discharge the debtors at the next account after they haue receiued such debts (and then the Debt

*Le vic. ac-
quitera le
debtor.*

The Kings Debts.

Debt shall be allowed in the Exchequer, so that it shall no more come in the summons: And if the Sherife otherwise doe, and thereof bee attainted, hee shall pay to the plaintife thrice as much as hee hath received, and shall also make fine at the kings pleasure: and besides the Sherife stands bound thereto by his Oath Article, 4.

*Proces shalbe
shewed.*

Also by the same statutes, Proces (sc. the summons out of the Exchequer) for the leuying of the kings Det, shall bee shewed to the Debtor that demands the sight thereof, without deniall or fee. And the Sherife shall make Tails to all such as shall pay him (or his Officers) their Debt due to the King. 3. Ed. 1.

And if any Clerke of the Exchequer shall make out any proces for a Debt that is payed, hee shall loose his Office, and bee imprisoned untill hee hath made gree with the partie &c. 1. R. 2. ca. 5.

*Estreats sealed
shall be
shewed.*

By the statutes of 42. Edw. 3. cap. 9. & 7. Hen. 4. cap. 3. 42. Ed. 3.
7. H. 4. Estreats sealed vnder the seale of the Exchequer, shall bee shewed to the party indebted by the Sherife, or his Officers, when they leuie the kings Debts; and that which is paid they shall Cot or cause to bee Cotted (and discharged): And if the Debt which in that sort, is once paid, bee another time demanded of the partie, the said Sherife &c. shall pay to the party grieved his treble damages, and make fine to the King.

And Sherifes shall Accompt by Estreats Cotted, and by none other: And the Coppy of the Estreats, wherein they touch the franchises of Lords, shall bee deliuered to the Bailifes of the franchises, vnder the seale of the Sherife, and the same Bailifes shall yeeld their Accompt in the Exchequer, by the same Copies so deliuered.

*Distresse re-
deliuer.*

If the kings Debtor can find sufficient sureties, to pay to the Sherife the kings debt, before the day of the Returne of the writ, the Sherife shall deliuer the distresse (or beasts) taken againe: otherwise the partie may haue an Attachement against the Sherife or Officer &c. 28. Ed. 1.
cap. 11. Fitzharb. 174. b. c.

Debts

Debts poient estre due al Roy in diuers manners : scz. per atteynder, vtlary, forfeiture, ou done, ou per Iudgement, Recog, ou Specialty.

Nota que tous obligations recog. & specialties faits al Roy, serra de Regule, force del stat. staple : vide hic stat. staple.

Roy auera execution pur ses debts, deuant ascun common person : scz. si son suit soit commence, deuant l'auter ad Iudgement. vide stat. 9. H. 3. c. 18. & 33. H. 8. c. 39. Br. Prerog. 71.

Nota que le Roy poet priuiledge son dettor, que nul auera execution vers luy, tanque le Roy soit satisfie. Br. Prerog. 105.

Si le vic' (ou ses officers, ou ascun auter) distreine pur debt le Roy, &c. Distresse. les beafts del carue ou barbits (lou ils poient trome auters) ; Ou prist excessiue distresse ; ou amesne le distres trope longe ; le party greiue poet auer attachment sur le stat. vers tiel viscounte ou officer, &c. Fitz. 174. b. c. ou le party poet auer action de trespas vers le viscounte, Fitz. 90. b. Vncore vide Fitz. tit. Auowry. 239. que distresse ne serra dit excessiue, ou le Roy est party.

The Sherife and his Officers may distraine for the Kings Debt, &c. in the Kings high way, or in the common street. 52. H. 3. cap. 15. Fitz. 173. f.

Also they may distraine for the Kings Debt in the possessions of Ecclesiasticall persons (not being the ancient fees of the Church in the time of King Richard the 2.) 9. E. 2. cap. 9.

And by the booke 27. ass. p. 66. the Kings Officer may distraine for Issues in the Church or Sanctuarie : scz. If he can find no goods elsewhere to distraine, Br. Distress. 35.

They also for the Kings Debt, may carrie or driue the distresse out of the countie (as it seemes) See Fitz. Barr. 275. & Distress. 16.

Also they may sell (after fiftene dayes) a distresse taken by them for the Kings Debt : See Br. Distress. 32. 40. & 72. & stat. 51. H. 3.

And so of a distresse taken for the taske or xv ; or for charges of the knights of the Parlement, 8. R. 2. & 11. H. 4.
Queux

The Kings Debts.

Queux perfons, & terres, ferra chargeable al pay-
ment del Debts le Roy.

LE heire del Debtor le Roy, (que ad terre per discent, ou done son
aunc') ferra chargeable, See hic tit' Statute staple.

Iffint le heire in taile est chargeable. See ibid.

Terres del Debtor le Roy, vient al maines de diuers persons, ils ferra
touts charge; & tout le terre &c. & chescun parcell del ceo, ferra en-
tierment et nemy seueralment charge. 33.H.8.cap. 39.P. Account'
9. & Co.7.20.b.

Queux Accountants, ou Officers, leur terres &c. ferra liable al pay-
ment del Debts le Roy, in tiel manner come sils vissent estre lye al roy per
obligac' &c. vide statut' 13.Eliz.cap.4.P. Accountants 29. 13.Eliz.4.

Accountants purchasé terres in le nosme de auters persons, ou ferra
liable al payment de debt le roy. P. Accountants 31. Ibid.

Le Statute de Accountants fait. 13.Eliz. cap. 4. ne extend, al
terres del Euesques queux ont collection del subsidies ou Tenths, P. Ac-
countants 33. Ibidem.

Ne extendra al ascun Accountant, sinon que son annuall receipt,
collection, ou charge, excede le somme de 300.li.P. ibidem 34.

Nec extendra al ascun Accountants, queux ne sont de faire present
payments &c.P. ibidem 35.

Nec extendra de charger ascun Vicount, Escheator ne Bailife de li-
bertie, ne leur terre &c. pur ascun chose touchant leur Offices; ne pur
asc' money per eux receiue, per reason de leur Offices, P. ibidem 36.

Vncore chescun de ceux persons, & leur terres, ferra liable al pay-
ment del debts le roy, in mannor come ils fuer' chargeable deuant.

Mes si Accountant le roy, possesse d'un terme pur ans, vend ceo bona
fide, & le vendee enter, ad iudge que cest lease ne ferra extendable on
liable al debt le roy, car forsque chattell: Auxy Receiuer, ou auter ac-
countant in debt al roy, ne ferra in peior case que un felon on traitor,
queux apres felonie ou treason, et deuât conuictio, poiens vend' bona fide
pur leur sustenance &c. leur chattels reall ou personall. Co.8.171.

Sureties

The Kings Debts.

25

Sureties ne serra charge, lon le principall est sufficient, 9.H.3. cap.8. P.Accounts 51. See hic antea.

Si Debtor le Roy morust, le Roy serra primes pay son debt. 9. H. 3. cap.18. see hic antea & Br.Prerog.71.

Le executor & administrator del debtor le Roy, ayant affets, sont chargeable, al debt le Roy &c. 33.H.8. cap.39. Et semble que le Common ley fuit issint, deuant ceo stat' Br.Prerog.126.

40. AEp.36 *Si un loyntenant soit debtor le roy, le possession de son Compagnion ne serra charge, mes tantum le possession que appartient a luy que est le debtor: vncore per Thorpe, silun nad riens lauter responder. Quære.*

Br.Dist.72. *Roy ne poit distraire pur debt le baron, sur le dower la feme, ne in sa Inheritance, ne in le ioynt estate ou purchase que el auer oue son baron: mes si le baron fuit indebt al roy deuant le couerture, la le roy po- et distraire in le dower del feme.*

Vide Fitz.45.46. Que si le viscont ad proces hors del Exchequer a leuier les debis le baron, que il doit al roy, ou si le viscont ad proces hors del auter court de leuier certaine debis due per sa baron al auter person, vncore le viscont ne doit distraire in le terres que le feme (apres mort son baron) issint tient &c.

Et sic vide que le roy, ou ses officers (sur proces &c.) poient distraire pur det due al roy: Et si home soit indebt al roy, quel debtor ad tenants que doient rent a luy, le roy poit faire leuy son det sur ceux tenants, & ceo serra bone barre pur eux vers leur seignior, que est debtor al roy, & que ils ad ceo pay al roy per leuy &c. 21.H.7.12. Br.Prerog.39.

Nota dettors le roy serra gree al roy pur leur det in le Eschequer, & nemy in Banco, nec in ascun auter court (come semble) Vide Fitz. Decies tantum 12.

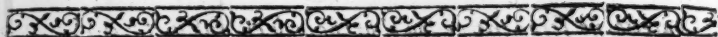
Deniers baile in banco, ou in auter Court, poit estre stay & arrestus la, pur det le roy ibid.

Si deux sont indets al roy, & le roy release al un de eux tous detts, ceo ne seruera l'auter. 2.R.3. fol.4. Br.Prerog.124.

F

Issues.

Issues.



Issues.

Issues.



He Sherife is accountable to the King, for all manner of Issues and profits of the Countie, which runne vnder the name of Vicountiels. 2. Hen. 7. 6.

And by his Office he is (vpon proces out of the Eschequer &c.) to gather vp, and to bring into the Eschequer such Issues and profits &c.

The word Issues (in our Law) is sometimes vled for the profits growing to the King &c. (out of Lands or Tenements) as an Amerciament, fine, forfeiture or punishment, for default of apparance &c. and sometimes for the profits of the Lands or Tenements themselves.

*Issues perde
per default.*

Issues lost and retorne in respect of none apparance of the defendants, or of Iuroz, shalbe forfeit to the King and shall bee leuied by the Sherife, See hic postea Retorne of Issues.

What is contained vnder the name of Issues. See hic postea ibidem.

How much the Sherife must retorne in Issues vpon the defendant &c. ibidem.

What Issues he must retorne vpon Iuroz, ibidem.

The Sherife shall leuie no Issues without warrant: ibidem.

Issues forfeited, and vpon whom, and what Lands they shall be leuied &c. ibidem & hic postea tit. Forfeiture.

If the Sherife shall retorne a Iuroz, in Issues, which is not sufficient, he is punishable, ibidem.

So if the Sherife shall retorne any Issues vpon any Iuroz, or Hundredoz, which was not lawfully summoned &c. ibidem.

If

If the Sherife shall retozne the Issues of any Recogni-
sor, Pledge, or Mainpernor, which at the time of the re-
tozne, was not sufficient to answere the said Issues and
Amerciements, the Sherife himselte shall answere, and
shall bee therewith charged in the Eschequer, 27. Edw. I.
P. Sherifes 19.

*Après mort del tenant le Roy in Capite, le roy auera primer seisin, scz. Issues de
les Issues de tous ses terres &c. vide statut 17. Ed. 2. cap. 3. & Co. terres.
8. 172. & 9. 132.*

*De quel temps Roy auera les Issues del terres le heire son tenant, vide
Co. 4. 59. 126. & 8. 170.*

*De quel temps Roy auera les Issues del terre son tenant, que alien sans
licence &c. vide hic tit. Fines.*

*Cestuy que happa Liuerie extra manus Regis, que ne doit auer Li-
uerie, il respondera les Issues al Roy arere, vide Fitz. N. B. & Br.
Issues 19.*

*Roy serra respond' des Issues, del temps de son tisle primes accrue &c.
(sc. apres office troue.) see Fitz. Gard 1. & Iudgemt 69. Stamf.
84. Co. 8. 171.*

Issues de terres de felons, fugitiues, & vilaines, see hic fol.

*Tenant le Roy deuuy seisie, et estraunger abate in part des tenem'ts del
heire, le abator serra charge oue les Issues del co, & nemy le heire Br.
Issues 20.*

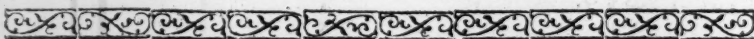
*Ou pardon de intrusion excuser Issues, & ou nemy vide Br. Intru-
sion 21.*

Co. 8. 169. But the Sherife (or other officer) ought not, at this day, to
seise any lands into the kings hands, vntill after office
found, &c.

28. Ed. 3. By the statute made 28. E. 3. cap. 4. it is ordained that of *Means*
Manors, Cities, Boroughs, Townes, Hundreds, *rates.*
franchises, and all other Lands and Tenements
whereof profit doth arise from time to time through the
yeare (as Mills, Herbage, Colle and profits) euerie
Officer which shall seise such Lands and Tenements to
the kings vse, and after shall make liuerie thereof to
the

Amerciaments.

the heire (by the Kings commaundment out of the Chancerie) yet they shalbe bound to answer to the king for the rate and portion of the time, according to the old course of the Eschequer.



Amerciaments.

The Sherife, is also accountable to the king for, and vpon proceſſe ac. is to gather by, and to bring into the Kings Eschequer, all Amerciaments, and fines, which shalbe set or assessed (as a penaltie) vpon the heads of offenders, against the king, in any of his Courts.

*Amercia-
ment.*

This word Amerciament, is called in Latin Misericordia, and in English Mercie; so as by the name and nature of this word, a man is not to be punished so much as he or his offence deserueth, but that the Amerciament ought to be lesse than the offence; for it cannot be properly said, that a man hath Mercie shewed to him, if hee shall pay or be charged at more than his offence deserueth; and this is by the Common Law, which is a Law of mercie, and by the Law of reason, a principall ground of our Common Law.

Co. 8. 59. b.
Fitz. 75. h. k

And hereupon also it is, where two or more are to be Amerced, though for one ioynt offence, yet their Amerciaments shall be seuerall, for that one of them shall not be charged or Amerced for the offence or default of the other, but that they shall be all equally Amerced and charged, Fitz. 75. g. h. k.

And if there bee diuers Demandants Amerced in a plea Reall, for their nonsuit, the course of the Court of Common pleas is to make the Estreats of the Amerciaments, seuerally vpon them, and to deliuer the same Estreats to the Clerkes of the Assises, who deliuer them to the Coroners, and they vse to Assesse the Amerciaments (sc. to assess the summes vpon every one) seuerally, Fitz. 75. k. 76. a.

And so they vse to doe where there are diuers Defendants Amerced, Fitz. 75. i.

And

And those Shreets doe rehearse and shew the cause of the Amerciaments, &c.

9. H. 3. 14.
3. E. 1. 18.
Co. 8. 39. b.
40.

By the statutes of Magna Charta, cap. 14. & Westminster 1. ca. 18. Amerciaments ought to be assesse, (taxed, or assessed) *Amerciaments.* per Pais, scz. per Pares, by the Oathes of good and lawfull men of the same Wicnage or Countie.

But this is to bee understood of Amerciaments vpon the plaintife or demandant, or vpon the tenant or defendant in actions reall or personall, (as if the plaintife or demandant bee Nonsuit; or if Judgement bee given against the tenant or defendant; or vpon the plaintife, Quia non est prosecutus, or pro falso Clamore, or the like) or vpon the Mainpernozs, for that the principall partie doth not appeare, &c. in such cases the Iustices neuer assesse any amer- ciament, but by the former Statutes the Amerciaments ought to bee assesse per Pares; And the Court in such cases enters, Ideo in misericordia, generally, without tax- ing or assesseing any summe in certaine.

And then the Clerke of the Warrants in the Common Place, doth make Shreets of these Amerciaments, and de- livers them to the Clerke of the Assises within euerie cir- cuit, to deliuer vnto the Coroners in euerie countie to assesse (id est to assesse) the Amerciaments, vt supra.

And so for Amerciaments vpon Inditements or Pre- sentments, for not repairing of a bridge, or high way, or the like; such Amerciaments ought to bee assesse per Pares, &c.

3. H. 7. 7. a.
Fitz. grt. 33

But Amerciaments of euerie Officer or Minister of Ju- stice, must be assesse by the Iustices of the Court where the cause depends: and this is called an Amerciament Roy- all, as where the Sherife, Coroner, or other Officer of the King is amerced by the Iustices for any his abuse or misde- meaning in his Office: vide Co. 8. 40. Br. Amerce. 25. 33. & 50. et l' mes del Ley.

Amerciaments.

*Quenx
persons
serront
amerce,
queux
nemy.*

Peeres del Realme, et Euesques poyent estre amerce. Co. 8.

40. Br. Amercement 2. 23. 47. & 48.

Feme couert serra amerce. Br. 9. Fitz. Amercement 14.

Mes Enfant ne serra amerce, pur imbecillity del Age, mes l'ntree est, Ideo in misericordia, sed perdonatur quia Enfans. Co. 8. 61. Br. 43. Fitz. Amercement 10. & 14.

Jurors serra amerce, &c. Br. 30. 46. 55. & 60.

Playntise ou demandant serra amercie in diuers Cases, et pur diuers causes: vide Co. 8. 60. 61. & Br. 3. 6. 7.

11. 27. & 31.

Desi' ou t'i ser' am'ce in diu's cases; Co. 8. 61. Br. am't. 6. 8

Nota que Amercements, & Fines in ascun Cases serra Co. 11. 43.

impose sur diuers ioyntment: scz. ascun foits sur un entier Countey; ascun foits sur un Hundred; et ascun foits sur un ville, &c. cōe pur Escape dun Murderer, &c. mes ceo est pur le incertenty des persons, & pur infinitenesse del number. vide Fitz. Coron. 290. 302. 304. 316.

Auxi le plaintise in ascun cases, poet estre diuers foits amercie: scz. quans la est forsque un plaintise ou demandant, & diuers defendants. Co. 8. 61.

Mes nul serra Amerce, mes pur reasonable cause; Et accordant al quantity de son offence. 9. H. 3. c. 14. 3. E. 1. c. 6. P. Amerc. 1.

Quel terre serra charg' al Amercement.

In an Assise the plaintife was nonsuit, when the Jury came to gite vp their verdict, and was amerced, &c. and by the opinion of Newton, the land which the plaintife had the day when hee found pledges, shall be chargeable to the Amerciament, but Wilbie held otherwise: scz. that the land which he then had (when hee was nonsuite, or was amerced) or which the plaintife should afterwards haue, was onely chargeable: Quod Nota, that the land which the plaintife sold in the meane time betweene the Amerciament, and the pledges found, should be discharged: 22. aff. p. 32. Br. Amercement 37.

Vide hic postea (*Retourne de Issues sur Jurors*) sur que tiels Issues serra leuy; et semble que tiels terres que sont chargeable ou liable al Issues, serra auxi chargeable al Amercements. hic postea fol.

Fines.

Fines.



This word fines (à fine) hath diuers significati- *Fines.*
 ons: but to the purpose in hand, a fine is most
 commonly that which is assessed or set vpon an
 offender in some court of record by the court or
 Judge there, and which the offender doth
 giue for and in satisfaction of his offence or contempt:
 See Co. 8. 38. 40. 41. & 60.

Also if the kings tenants alien without the kings license,
 they shall pay a fine: 9. H. 3. 32. & 17. E. 2. 7.

And by the statute made 2. & 3. Ed. 6. cap. 34. it seemeth
 that Sherifes shall bee accountable for all fines for
 Alienations and Intrusions made by the kings tenants,
 &c. within their countie, as well as for fines imposed vpon
 offenders for contempt, &c.

Principium finium pro Alienatione, vide Br. Alienat': 6. &
 10. & Co. 2. 80.

Pur queux Alienations sans licence, le tenant sera fine, & pur queux *Fines pur*
meny. vide Br. Alienation per totum. *Alienation.*

Quantum serra pay al Roy, pur fine sar Alienation sans li-
cence, &c. scz.

Fine de auer Licence de Alien, nest forsque le teirce part del value
(del terre) per an.

Le Fine pur alienation sans licence, est le value pur un an.

Fine pur intrusion, est le value del terre pur un an. Br. Alie-
nation 29.

Et si le Alienation sans licence soit trouue per office le Roy auera les
issues del terre à tempore Inquisitionis captæ, & non ante. Br.
Alien. 29. le reason semble, pur ceo que icy le Roy nest intile forsque
nomine Districcionis.

I fins

Fines.

*Issint est lou le widdow le Roy (scz. de son tenant) sa marie sans li-
cence le roy. vide stat. Mag. Chart' cap. 7. & 17. Edw. 2. cap. 4. Fit.
Gard 1. & Prerogat. 27.* Fit. 174. c. d.

*Et lofficer le Roy (sans brieve a luy direct, poit in ceux cases seiser le
terre par le Fine &c. (Fitz. 174. c. 175. a. 225. b. & 226. c.) Et siel
brieve poit estre direct al Escheator, ou al vic' Fitz. 175. a.*

Fines pur Contemps & Offences.

*Fines pur
Contemps.*

*Ceux serra a sseffe & impose, in Cours : Et nul Court que nest de re-
cord impose Fine. Co. 8. 38. 60.*

*A chescun Fine, Imprisonment est incident &c. sc. quousque le
Fine soit pay, Co. 8. 59. & 11. 43.*

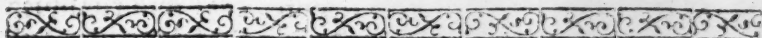
*Pur queux causes Fines serra impose &c. vide Co. 8. 38. 59. 60.
& 11. 43. Bf tit' Fines pur contemps per totum.*

*Ou le Fine serra fait al value del terre del offender (que ferraceo)
Br. Fine pur Cont' 42. Fitz. Paine 2. 3.*

*All fines, and Amerciements, assessed or imposed by the
Commissioners of Sewers, upon any offender, shalbe to
the use and behoofe of the king, by the statute 23. Hen. 8. ca.
5. But since the Commission for Hozk. and Suff. are ex-
cepted, by the statute made 7. Jac. cap. 20.*

*And by the statute 13. Eliz. cap. 9. The Clerke appointed
for any Commission of Sewers, shal yearly Estreat all
the Issues, fines, Penalties, forfeitures, and Amercia-
ments, that shalbe answerable to the king &c. And the same
Estreats shal yearly deliver into the Exchequer &c. and
from thence procelle shal goe out to the Sherife for the
levying thereof.*

Forfeitures



Forfeitures.



The Sherife &c. is to seise to the Kings vse the *Forfeiture.*
profits of the lands of persons attainted for
treason or felonie &c. and also their goods, and
is to account for the same in the Exchequer.

Co. 7 34 b.
Flo. 237 b.

Now euerie offender being lawfully con- *Per treason.*
uicted of high treason (by verdict, confession, vtlarie, or pre-
sentment) shall forfeit to the King all such lands, tenements
and hereditaments, and annuities which hee shall haue in
his owne right, in vse, or possession, of any estate of inheri-
tance, at the time of such treason committed, or at any time
after, 5. E. 6. cap. 11. P. Forf. 2.

And yet in diuers cases of high treason, there shall be no
corruption of blood, nor any forfeiture of dowry.

Also offenders convicted of high treason shall forfeit all
their goods and chattells (to the King) as well reall as per-
sonall, moueable and unmoueable. their coine growing, and
all their debts due to them: scz. all such goods &c. as they
shall haue at the time of their attainder, and not those which
the offender had sold or giuen away before.

Stamf. 38.

For misprision of treason the offender shall forfeit to the *Misprison.*
King the profits of his lands &c. during his life, and all his
goods and chattells for ever.

In case of Præmunire, the offender shall forfeit all his fee *Præmunire.*
simple lands, &c. for ever; and the profits of his intayled
lands &c. during his life; and all his goods and chattells
for ever. See my Countrie Iustice.

17. E. 2. c. 16
P. Prærog.
17.

The King shall haue the profits (by the space of one *Felonie.*
yeare and a day) of the freehold lands &c. of felons which
be condemned, and which be fugitiues; and all their goods
and chattells for ever wheresoeuer they be found.

Note that the King is to haue all the profits of their
fee-

Forfeitures.

fee simple lands for the yeare and day next after the attainder of the felon. Fitz. 144.k. & Register 165. and the issues and profits of their other lands during the felons life. And if a stranger shall enter upon the fee simple lands, within the yeare and a day, that stranger who tooke such profits shall be therfore answerable to the king. Fitz. 144.k.

For petie treason, or felonie, if the offendor hath but an estate taile in his lands, the king shall haue the profits of the lands during such offendors life.

Sometimes he that is attainted of high treason, petie treason, or felonie, shall also forfeit such lands whereof hee neither hath possession, reuerſion, or remainder, but only a title or right, or cause of action: As if a man be disseised of lands, and the disseisee committeth high treason, after an office found thereof, the king may seise those lands as forfeited and escheated to him: And if the disseisee be attainted of petie treason or felonie, the king shall haue the profits thereof by the space of a yeare and a day, and then the Lord of the fee may enter &c.

Co. 3. 10.
Stamf. 188. a

Also things in action, scz. debts due by obligation, statute or recognisance, & such like, are forfeited to the king by attainder or outlawrie. Co. 3. 2. 3.

Stamf. 188.

Also debts due upon a simple contract, or without specialty, shall be forfeited to the king. Co. 4. 95.

Ibid.

And yet if a distresse bee lawfully taken for rent reserved upon a lease, or that goods be pawned &c. if afterwards the owner of such distresses or goods be attainted of felonie, the king shall not haue the distresse, nor the goods pawned, without paying or satisfiying the partie that distrained, or him to whom the goods were pawned. 13. R. 2. Br. Pledg. 31.

Outlawed.

If a man be outlawed for treason or felonie, he shall forfeit all his lands &c. and all his goods. Fitz. Forfeiture 3. Br. 6.

Clerke convicted.

A Clerke convicted (scz. who hath his Clergie giuen him before that iudgement is giuen upon him for the felonie) shall forfeit none of his goods. Fitzh. Coron. 91. Br. Forfeiture 5. & 103. (& see Br. Forfeit. 11 & 65. Contra, that he shall

shall forfeit his goods: neither shall the King have the
 peare and day, and waite of their lands, for that the of-
 fendor is not attainted: Fitz. Coron. 332.

Also the king shall have the escheats of lands of the free- *Tenants del*
 holders of Arch-bishops and Bishops, when such tenants *Evesques.*
 be attainted for felonie in the time of vacation, whilest their
 temporalties are in the Kings hands, to give at his plea-
 sure: 17.E.2.cap.14.

If any murderer or other felon shall escape, the towne *Escape de*
 or countrey shall bee amerced or fined therefore, by the sta- *felon.*
 tutes, 3.E.1. cap.9. & 3.H.7.cap.1.

But the Sherife (nor any other) are not to take or leuie,
 any thing for the escape of any felon, before it bee adiudged
 by the Justices, &c.

A man arrested for a trespassse, escapeth, or is rescued by a
 stranger, these are finable, &c. Stamf. 31.e.

Stat. 150.e. If a man stands mute in an appeale, or upon an indite- *Mutum.*
 ment of felonie, hee shall forfeit his goods, Br. forf. 11.
 Plo. 262.

So if a man that is arraigned for felonie shall challenge
 about xxxv. without cause.

So if a man be found guiltie of felonie, and then hath his
 Clergie: and in these three former cases the offendor shall
 forfeit his goods, for that they refuse the triall or iudge-
 ment of the Law: See Plo. 262. b.

Stat. 188.g. Si Sacerdos fecerit feloniam, il forfeitera ses biens, & dismes Sacerdos.
 receives, nisi fuerint in Sanctuario.

If a man flies to the Church for felonie, his goods are *Prift Sanct.*
 forfeited presently, and the profits of his lands: and if hee
 abiures, he shall forfeit his lands and goods: Br. forf. 116. *Abiure.*
 121. Stamf. 120. a. 123. a.

Doct. & St. fol. 115. If a man abiures for heresie, hee shall not forfeit his *Heresie.*
 goods: but if hee be conuict and deliuered to the laypower
 &c. hee

Forfeitures.

Æ. hee shall forfeit his goods, but he shall forfeit no lands, except he be put to execution.

*Recog.
Fines.
Amerci-
ments.*

Also the King shall haue all amerciamentes, fines, issues, and all forfeitures of recognisances lost or forfeited, Æ. before any of his Judges, or Justices in any of their Courts or Sessions, but these must bee first estreated into the Exchequer, and from thence processe must bee awarded to the Sherife to leuie the same to the Kings vse, Æ.

Also the Courts of Exchequer, of Wards & of the Duchy haue authoritie to set amerciamentes, fines, and penalties vpon parties, officers, and other persons, for their defaults, contempts, negligences, or misdemeanors; as also to take recognisances for the King, Æ. All which amerciamentes, fines, penalties, and forfeitures of such recognisances shall be to the King, Æ. 33.H.8.c.39.

Also the King shall haue all amerciamentes, fines, forfeitures and issues forfeited in any of the Sherifes Courts, scz. in their Tournes, Countie Courts, or Hundreds within the twelue Shires of Wales; and the Sherifes of Wales shall account for the same, 34.H.8.P.Wales 43.

But otherwise it is of other Sherifes within England; See 6.H.7.fol.1.3. & hic tit. Sherifes Fees.

Goods attached.

Goods attached by the Sherife, Æ. if the partie so attached (by his goods) appeare not at his day, Æ. the goods attached are forfeit to the King, and the Sherife shall bee answerable for the value thereof: See hic tit. Attachment. Br. forf. 3.4

Issues.

Issues returned vpon Jurors (they making default of appearance, Æ.) shall be lost and forfeited to the King, and leuied by the Sherife to the Kings vse, vpon estreats thereof made out of the Exchequer, Æ.

And so of Issues returned vpon the defendant.

Attaint.

The petie Iurie attainted in a writ of attaint, shall forfeit to the King all their goods, and the profits of their lands during their liues, or vntill they haue made a fine with the King: Br. Attaynt. 95. Fitz. Ass. 396.

If any person shall strike, or but draw any wea-^{Affray}
pon to strike any Justice sitting in place of Judge-
ment: Or any Juror or other person in the presence
of the said Justices: or shall make an Affray in their
presence, such offendor shall forfeit to the King all his
goods, and the profits of his lands during his life:
So it is of any person which shall rescue any such of-
fendour.

If any person shall ride or goe armed offensively in ^{Armour}
affray of the Kings people, the Sherife may seise and
take away their armour and weapons, and preise them,
and shall answere them to the King as goods forfeited
to him: See my Countrey Justice, tit. Armour.

If any person shall weare any priue armout in the
Kings Palace, or in Westminster Hall, hee shall forfeit his
armour to the King: Fitz. forf. 22.

Stat. 187. b. *Nota que home ne forfeitera ascun terres que il ad in auter droit, Reguler
come in droit sa feme, ou in droit sa esglise, mes solement les terres que
il ad in son droit demesne,*

Fitz. forf. 16
& Coron.
390. *Home endite de felonie, ad feme inheretrix, le Roy auera les issues del
terre le feme &c. Isint sile baron est fugitive roy auera l'issues, tanque
le baron soit mort ou attaint.*

Fitz. Coron.
308. *Home occist auter, & obtaine Pardon, & uncore ses biens fuerount
seisies come forfeit al roy, & auxylan & wast in ses terres, & le vic'
fuit charge de tout.*

*Home ad lewell in gage pur x. li. & cesty que mister ceo in gage est
ataint, le Roy nauera le lewell sans payer le x. li. car prerogative le Roy
ne voet preiudicer auter, Plow. 487.*

Et isint est de distresse prise &c. Plow. 487. b.

25. E. 3. *Note that after a man is indited of felonie (by the Seise felons
Statute made Anno 25. E. 3. cap. 14.) a Capias shall goe goods.
out to the Sherife, commaunding him to attach the bo-
die of the felon; And if the Sherife returne in the
said writ that the bodie is not found, another writ
of*

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of Capias shall bee incontinently made returnable at three weekes after, and in the same writ it shall bee comprised that the Sherife shall seise his goods, and safely to keepe them till the day of the writ returned: and if the Sherife returne that the bodie is not found, and the Inditee commeth not in, the Exigent shall bee awarded, and the goods shall bee forfeit: But if hee come and yeeld himselfe, or bee taken by the Sherife (or other Minister) before the returne of the second Capias, then the goods and chattels of the Inditee shall bee saved.

By the Statute made Anno 1. R. 3. no Sherife (or other Officer) ought to take or seise the goods of any person, arrested, imprisoned, or indited for felonie, or for suspicion thereof, before the same person bee duely convicted or attainted of the same felonie (scz. either by Trial, Confession, or Utlarie and Judgement thereupon given,) or that the same goods be otherwise lawfully forfeited, vpon paine to forfeit the double value of those goods so taken to the partie grieved.

1. R. 3. c. 3.
P. Sher. 24.
Br. fort. 40.

And yet least the goods should bee disorderly wasted, imbeaselled, or sold away, the Sherife, &c. (before the attainder of the felon) may take sureties that the goods bee not imbeaselled, &c. (sc. may cause the owner, or some of his friends to find suretie) and for want of sureties, the Sherife, or other his Officers may seise them, and deliver them to the Towne (scz. to some of the neighbours of the Towne where the goods were) by them safely to bee kept: And by the opinion of Master Brooke, tit. forf. 44. this order ought to bee obserued concerning the goods of euerie one which committeth felonie, vntill hee bee attainted: But yet the felon must haue reasonable maintenance out of his goods for himselfe and his family in the meane time: And according heereunto there is a writ in the Register, videlicet, Quod tenementa & bona taliter capta, videantur & imbreuiantur, & saluo custodianur per ballivum ipsius capti, qui securitatem Regi inveniet ei respondendi si, &c. Salvis inde ipsi capto & familiae suae, necessarijs quamdiu fuerit in prisona. So that the felon must haue maintenance of his goods for him and his family, vntill hee bee convict, and then that which doth remaine shall bee to the King.

43. E. 3. 21.
Br. forf. 7.
10. 44.

Plo. 68.

So

So then this difference is to bee obserued in the seising of a felons goods, viz. where the goods bee forfeited before the felonie tried (as where one is found guiltie before the Coroner of the death of another; or where it is found before the Coroner that one did flie for a felonie) in such cases the goods shall bee presently seised vpon the forfeiture of them, though there bee no conuiction of the felon, and vpon such forfeiture the goods are presently the Kings, and the felon is to haue no mainetenance out of them, &c.

But where the goods be not forfeited vntill the felony tryed, then they shall not bee seised vntill the felon be conuicted, but yet there the Sherife, &c. may take sureties that the goods bee not imbeaselled or disorderly wasted, as aforesaid, and for want of sureties may deliuer them to the Towne, &c. And note that if goods so deliuered to the Towne, bee impaired in their custodie, the Sherife shall bee charged to leuie of the same Towne the value of the losse, &c. (as it seemeth) F. Coron, 355.

Also if a man shall flye for felonie, the Sherife, &c. is to *Fugitives.* seise all his goods and chattels, as also the profits of his lands to the Kings vse.

Co. 5. 109.
Flo. 262.

But yet the goods, &c. of a fugitive, are not forfeit vntill the flying for felonie bee lawfully found of Record; either before the Coroner vpon an inditement, super visum corporis, in case of the death of a man; or by verdict vpon his acquittal (for although hee bee found Not guiltie vpon his triall, yet hee shall forfeit his goods for his flying; Quia fatetur facinus, qui iudicium fugit, and the Law will admit no prooffe against this presumption:) And although the Iurie which tryes him shall find him Not guiltie, and further that hee did not flye; yet the goods are forfeit by force of the finding of his flying before the Coroner.

Co. 5. 109.

And if a felon bee arrested for any manner of felonie, and as hee is leading to a Justice of Peace to bee examined, or towards the Gaole, hee flyeth, and those which pursue him cannot take him againe without killing of him, by reason

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Fugitives.

whereof they doe kill him: if all this matter, and the flying bee presented before the Coroner, or before any other who hath authoritie to inquire of felonies, the partie so slaine shall forfeit all his goods and chattels: scz. all such as hee had at the time of the felonie committed: Fitz. Coron. 290.

And in these cases the Sherife, &c. presently after such flying found before the Coroner, is to seise the goods, and the profits of the lands of such offenders: See Fitz. Forf. 32.

And the custodie of the goods of those which bee convicted of felonie, or which bee fugitives after they bee forfeited, doth belong to the Towne where those goods bee, or where the felon doth dwell: and therefore upon a Fugam fecit presented before the Coroner, the goods ought to bee seised by the Sherife or his Officers, and pressed by an Enquest, and the apprepment must bee enrolled in the Coroners roll, and the goods shall bee delivered to the Towne to answer to the King for them: And though the goods bee not delivered to the Towne, yet if the goods were in the felons house or possession at the time of his conviction or flying, the Towne shall answer for them: Fitz. Coron. 366.

But for the profits of felons and fugitives lands, the Sherife is, and was alwayes chargeable therewith according to the extent thereof, and not any Towne. Fitz. Corō.
390.

Also hee that shall flee for felonie shall not forfeit the goods or profits of his lands, which hee had at the time of the felonie or flying; but those and such onely which hee had at the time of the inditement or acquittal: Co. 5. 109. Fitz. Coron. 296. & 344.

If procelle bee awarded upon an appeale or inditement of felonie against any person, who doth absent himselfe and not appeare, untill the Exigent shall bee awarded against him, by this absenting himselfe (which in Law is a flying) hee shall forfeit all his goods, which hee had at the time of the Exigent awarded, although hee peeld himselfe upon the Exigent, and that after hee bee Co. 5. 110.
& 111.

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33

See postea,
vtilaw.

bee acquite of the felonie : but if hee were in prison, or beyond the Sea, &c. at the time of the Exigent awarded, then hee shall not forfeit his goods, &c. See Fitz. forf. 19. & 31.

Note that he that is outlawed for treason or felonie, shall forfeit those goods which hee had at the time of the Exigent awarded, and not such as he had before, and hath aliened.

Note also a difference touching the profits of the lands of fugitives : scz. where the flying is presented before the Coroner, and where the flying is found by verdict upon an acquittall ; for upon a flying presented before the Coroner, the offender shall forfeit the profits of his lands untill his death, or untill hee bee acquite, or untill hee hath purchased the Kings pardon : But upon a flying found by verdict upon acquittall, hee shall forfeit no profits or issues of his lands, for by his acquittall his lands are discharged, and consequently the profits thereof : Fitz. Coron. 344.

If a man shall kill himselfe, hee shall forfeit to the King *Felo de se.* all his goods and chattels : And the Sherife and his Officers are to seile them to the Kings use, but hee shall not forfeit his lands.

If an enfant, a man *Non compos mentis*, or a lunatike killeth himselfe, they shall forfeit nothing : See more in my Countrey Iustice, tit. *felo de se.*

There be other kinds of forfeitures of goods to the King,
as *bona Wayvata*, Estrayes, *bona Con-*
fiscata, *Deodanda*, &c.

Co. 5. 109.

Bona waiviata, or *derelicta*, are where a felon hath stolne goods, and upon hue and crie, or other pursuit after him, hee wayueth the goods ; or where the felon for feare to bee apprehended (thinking that pursuit is made after him, or otherwise to ease himselfe of his carriage) he hauing the goods with him in his possession, flyeth and wayueth, casteth away, or goeth from the goods : In these cases the goods are forfeit to the King by the Com-
mon

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mon Lawe of this Realme : and the Sherife, &c. is to seise them to the Kings vse.

And yet the partie robbed, or owner of the goods, shall after bee restored to his goods againe : scz. if he make fresh suit, &c. and this is by the Common Lawe : or if he doe cause the felon to bee thereof attainted, &c. and this is by force of the statute made, 21. H. 8. cap. 11.

Br. Estray. 8.
& 14.

But if the felon had not the goods with or about him when he fled (having peradventure hid them, or left them in his owne house, or in the house of any other, or in the custodie of any other, or left them within any mans Mannor, or put, hid, or bestowed them in the ground, or in any other secret place, and then had fled :) These goods are not forfeit, neither shall they bee said to bee wayued goods in Lawe, but that the owner may take them againe when hee will, without either fresh suit made after the felon, or without causing him to bee attainted, or other prosecuting of him (as it seemeth) and the Sherife, nor any other Officer are not to seise or meddle with any such goods, &c.

Co. Ibid.

Note that there can be no waife (properly) but of goods that were stolen ; and yet if upon hue and crie leuied, a man that hath committed no felonie, doth leaue his owne goods and flyeth, those goods (by some opinions) may bee seised to the Kings vse for a waife. See 29. E. 3. fol. 29. And so seemes the opinion of Laicon in 12. E. 4. fol. 5. But by the opinion of Nedh. in 12. Ed. 4. and of Master Brooke tit. Estray 2. (agreeing with the opinion of Sir Edward Coke, here before) a waife is only that which is stolne, and after wayued and left in flying ; and Catalla felonum, are the proper goods of the felon, and the one may bee seised and forfeited by the flying, but not the other : Br. Estray 2. 6. but a man wayuing his owne goods they are not forfeit, but that he may haue and take them againe when hee will,

Stamf. 136.

Regule.

Home poet prescribe d'aueur wayffe, mes nemy in Catalla felonum. Br. Estray 2. 6. & Co. 9. 27.

Biens emblees & waiffes, vncore cesty a que le proprietie finit, poet eux resciser 20. ans apres, si nul officer le Roy, ou d'aute Seignior, &c. ad eux seisie, Fitz. Estray 2.

Si

13.E. 4. 10. Si Merchant Alien vient in cest realme per safe conduct, & ses biens sont emblees, ceux biens ne poent estre waifes, car le roy ad grant a luy saluum & securum &c. tam in bonis quam in corpore, & cest un comenaunt perenter le roy & luy, per que le roy ne poet auer les biens come waifes; & per mesme le reason le roy ne poet granter eux al auter person &c. Fitz. Estray 1.

Bracton lib. 1. cap. 12. These goods waived, the Civilians call derelicta: and After Bracton saith, Quod olim fuerunt inventoris de jure naturali, & jam efficiuntur principis de jure gentium; and he reckoneth them inter res quæ sunt nullius &c. as estreaies; and the like.

But now kings have graunted this, and such like prerogatives unto their subiects within their liberties, so that waifes and Estreaies are (in many places) the Lords of the franchise where they are found; but they must first by him be caused to be cryed in Churches, and Markets neere about him, or else the yeare and day doth not run to the prejudice of him that hath lost them.

Nota per le Common Ley Estray serra proclaime in deux prochains Estray. market Villes, & deux market iours, lun in lun ville, & l'auter in l'autre ville: Et sil soit claime deins lan & iour, le owner reuera; & ce-
sly que prist eux come estray poet eux retenir tanque il soit satisfie par le finding, keeping, & proclaiming del beast &c. See Br. Estray 1. 4. & 16. Fitz. Estray 4. & Co. 5. 108.

Estray ne poet estre in tiel lieu, ou le partie ad common. Br. Estray 3. & Co. 7. 16.

Co. 5. 108. Biens de Infant, feme conert executrix, home in prison, & home ouster le meere, fils estreyont, & sont proclaime solonque le ley, si nul claime eux deins le an & iour, ils tonts serra lye, & tiel biens poient estre seise al oeps le roy &c.

Estray est lou ascun beast ou castell vient in ascun seigniorie, & nul co-
naist le owner de ceo.

Et nota que wained biens & estreaies serra seise per lofficer le roy, al oeps le roy; ou per lofficer ou bailife del seignior, que ad tiels choses per
grant

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grant le roy, ou per prescription al oeps le seignior: Termes del Ley.

One as bailife or seruant to the sherife, seised a horse, as an estray to the kings vse, and proclaimed him according to law &c. And after the yeare and day sold him, and the sherife accounted therefore in the Exchequer. Br. Estray 4. & 5. 24. H. 6. fol. 5.

Swans may be seised as an estray. 7. Hen. 6. Fitz. Barr. 6.

Swans that be unmarked and wilde (being at large and abroad) the sherife may seise them to and for the vse of the king, by his prerogative, they being volatilia regalia. Co. 7. 16.

*Bona confis-
cata.*

The word confiscate (confiscare, i. conferre in fiscum) cometh from fiscus, which (as Master Minshen saith) originally signifyeth a hamper, &c. but metonymically, the Emperors treasure, because it was anciently kept in hampers; and such goods as were forfeited to the Emperors treasure for any offence, were bona confiscata; and so do we call those goods that are forfeited to our kings Exchequer, *hec ille*.

And indeed our law in some cases doth intitle the king to goods that late were another persons, but lost by some default or negligence of his, yet this cannot properly be termed a forfeiture, but a confiscation of goods. As if a man doe steale diuers goods, and the owner of the goods doth bring his appeale of Robberie against the felon, and therein doth omit or leaue out any part of his said goods that were stolne, in this case the king shall haue all those goods which were left out of the appeale and the reason of law is, for that by this omission or leauing out any of the goods the felon may escape, and the appellant shall be thus punished by the losse of his goods, for such his negligence, conniuecie, and concealing of the felons offence, and then in as much as the owner cannot haue those goods, the king shall haue them as confiscate, according to the old rule, *quod non capit Christus, capit fiscus*.

Co. 5. 110.
Fitz. cor. 100

So if a man be indicted for the felonious stealing of another mans goods, where in trueth those goods bee his owne, and the goods bee brought into the court (as a manour against him) and he is asked by the court whose those goods

goods bee, and he doth disclaime to haue any propertie in them; by this disclaimer hee shall loose the goods, though they were his owne; and though he be acquit of the felonie, yet the goods by this disclaimer shall bee confiscate to the king. Fitz. Coron. 355. & 368.

So if goods be found in the possession of a felon which he doth disauow, and after hee is attainted for stealing of other goods, but not of those; in this case the goods which he did disauow shall be confiscate to the king: but if he had beene attainted for the stealing of those goods, they should haue beene termed goods forfeit, and not confiscate. Fitzh. Forf. 24.

Co. 5. 110.

Also if A. hath the goods of B. by bailment, or finding them, or by other lawfull meanes, and B. doth bring an appeale of robberie against A. charging him to haue stolne them or taken them feloniously, and it is found by the Iurie, that the goods were the plaintifes, and yet that the defendant A. came to them lawfully, in this case B. the plaintife shall loose these goods to the king, for his false and malicious appeale; scz. they shall be confiscate. *Faux appeale.*

If a man do steale goods at diuers times from seuerall men, and he is attainted at the suite of one of them for the goods stolne from him, but is not attainted at the suit of the others, by this attainder the felon shall forfeit to the king not onely his owne goods, but also the goods stolne from those other at whose suit he was not attainted, although he had no propertie, but onely a possession of those goods; for a felon hath no propertie in goods stolne, but the propertie doth alwaies remaine in the right owner, which propertie in this case he also forfeiteth or looseth to the king, for default of pursuing the felon. *Pur default de pursuit.*

So if a man do steale goods from another, and before his attainder he doth kill himselfe, he shall forfeit to the king not onely his owne goods, but also the goods which he hath stolne from the other: for the owner of those goods not having prosecuted and giuen euidence against the offender to attaint him of felonie (either by appeale, or indictment) can neither haue restitution of those goods by the common law, nor by force of the statute of 2 I. H. 8. C. 11.

Deodands,

Forfeitures.

Deodands.

Deodands, are goods, or any other thing, which do cause or are any occasion of the death of a man by misadventure: And the Jurie which doe finde the death of the man, must also find and appraise the Deodand. And the Sherife shalbe chargeable therewith; scz. shall be charged to leuie the price of such Deodands of the towne: but Quare whether the Sherife may not seise such Deodand.

Co. 5. 119.
Fitz. Cor
298.
Stamf. 11.

See the statute de officio Coronatoris made Anno 3. E. 1. that hoxles, boates, oxen, and carts, or other things where- by any person shall be slaine, that properly are called Deodands, they shall be praised, valued, and deliuered (by the Coroner) to the whole Towneship, who shall bee answerable therfore.

*Goods of
Egyptians.*

Euerie Sherife, within one moneth after the arriuall may seise to the Kings vse, all the goods and chattells of any outlandish persons calling themselves Egyptians, that shall come into this Realme: And may keepe the one moi- tie thereof to his owne vse, making an account to the King in the Exchequer for the other moi- tie, 22. H. 8. cap. 10.

But yet euerie person that shall proue by two credible witneses, before the Sherife, that any of those goods were craftily, or feloniously taken from him, shall be presently re- stored thereto, vpon paine of the double value thereof, to be forfeited by the Sherife, to the partie griued &c.

And yet note that after the moneth, the offence is made felonie by the statutes, 1. & 2. Ph. & Ma. cap. 4. & 5. Eliz. cap. 10. And then the king is to haue the whole goods of such Egyptians.

Wilans goods

Where a man is appealed, or indicted for felonie, and withdraues and absents himselfe, so long time as that an Exigent is awarded against him, this absenting himselfe is accounted a flying in Law, for which hee shall forfeit all his goods although he shalbe afterwards acquite of the fe- lonie. And the Sherife or his officers may, ex officio, seise them presently to the kings vse, see hic antea Fugitiues, & Franchises.

Co. 5. 120. b.
Stamf. 184.

For felonie.

Note that he which is outlawed for felonie, shall forfeit his lands, and the king shall haue Annum diem & vastum &c.
But

Forfeitures.

36

But for vtlarie in any personall action he shall forfeit no land, but onely the profits of his lands, Br. Forf. 75. & vt-lag. 36.

Plo 341.b.
5. H. 7. 16.
21. H. 7. 7.

Quere si le
roy auera
les coppies
woods cres
sants sur le
terre.

The Sherife (and his officers) may *ex officio* seise to the kings vse, all the goods and chattells reall and personall, of all such persons as shall bee outlawed in any personall action: scz. all such goods as they had at the time of the exigent awarded (although they yeeld themselves vpon the exigent:) And they may take for the King all the profits of the lands in the possession of the partie outlawed, scz. all the corne and grasse groweing, and the feed and herbage of the grounds &c. (as they arise or grow of themselves) and the rents of his fermours. But they may not meddle with the possession of the lands, to plough, or let the same &c. And if the partie outlawed shall make a feoffment of his land, the king shall haue no more the profits thereof, but the feoffee shall haue the same, See Br. Forf. 24. 26. & 30. & Br. Issues 9. 10. *In action personall.*

But where a woman executrix takes a husband who is outlawed, the goods of the testator shall not be thereby forfeited, 33. H. 6. Br. Forf. 71.

And so if an executor himselfe be outlawed, he shall not thereby forfeit the goods of the testator, Ibidem.

He that is outlawed in a personall action, shall forfeit all such debts as are owing to him by bond or other specialtie, but not such debts or other dueties, as are due to him by contract &c. (without specialtie) as it hath bene aunciently holden, See 49. E. 3. Br. Forf. 74. 16. E. 4. 4. & 4. H. 7. 17. Br. Forf. 107.

And yet now it is holden by Sir Edw. Coke in Slades case 4. part fol. 95. a. that he that is outlawed (in a personall action) shall forfeit such debts and dueties as were due to him by single contract, See ibid.

No goods lawfully distrained, nor goods letten or demised, nor goods pawned or pledged, shall be taken or seised for outlawrie, vntill the lease be determined, or the rent or other satisfaction be yeelded vpon the distresse, or the money paid for the pawne or pledge, 4. E. 6. Br. Distr. 75.

In

Forfeitures.

In an action of trespass for carrying away goods, it is a good plea, that the owner was outlawed, and that hee as servant to the sherife, and by his commandement tooke the goods. Br. Trespas 339.

But note where the lord of a manor or franchise, hath by charter the goods of felons, fugitives, or outlawes &c. there the sherif or his officers are not to seise or meddle with such goods: And yet such lord must haue them by charter, and not to claime them only by prescription or vsage: And such charter must be made within the time of memorie &c. (scz. since the time of King Richard the first) and by plaine and speciall words; or else such charter must haue the aide and helpe of some other matter of record, within the time of memorie, as allowance before the Iustices in Eyre, or before the Iustices of the Kings Bench, or (in some cases) before the Iustices of the Common Pleas, or before the Barons of the Exchequer, or by force of some confirmation by charter of record of some King or Queene within the time of memorie: And it shall be only good for such part of such charter, as hath bene so allowed or confirmed. Coke 9. 27.28.

*Idemptitate
nominis.*

*Vic' prendr'
sureties.*

If the sherife (or any other officer) shall wrongfully seise or take one mans lands, or goods, being of the same name with another that is outlawed, in such case the partie griued, his executors or administrators may haue a writ de Idemptitate nominis directed to the sherife &c. wherupon the partie griued shall find sureties before, or to the sherife (or other officer which hath warrant to seise) to answer the king of the value of such lands, or goods and chattels, in case that hee cannot discharge himselfe: And for this the sherife (or other officer) shall not take any thing of the partie, but shall forthwith (vpon sureties found as aforesaid) deliuer to the partie griued his goods &c. againe, vpon pain to lose to the partie griued his double damages, and besides to be griuouly punished to the king. See the statutes of 37.E.3.ca.2. & 9.H.6.ca.4. & Fitz. 268.

Regule.

Nota per *Bracton* libro 2. Homo vtlagatus forisfacit patriam, amicos, quæ pacis sunt, quæ legis sunt, & quæ juris & possessionis sunt. Vide *Stamf.* 196.

Regule.

Sur briefe de Capias vtlagat. le vicont poet vender les biens del partie

partie vilage; on poet eux conserue al oeps le Roy. Co. 5. 90. b. Dyer 365.

Co. 1. 90.
& 2. 143.

Mes si les biens dun home vilage sont vend per le vicont, sur briefe de Capias vtlagat. &c. & apres le vtlarie est reuerse per briefe de Error, le defendant auera restitution de ses biens, pur ceo que le vicont nest compellable ne command de vender eux: car per le Capias vtlagat. le vicont est command a prender le corps &c. Et bona & cattalla que per Inquisitionem invenerit in manus nostras, vt de vero valore &c. Et sic vide diuersitatem inter meane acts & faits in execution de Iustice que sont compulsive, & acts que sont voluntarie. See hic postea Exec' per Fieri fac'.

Cestuy que est vilage sur Indictment de Trespas al suit le Roy, fera fine & ransome (que est treble le fine al meins) Br. Vtlag. 37.

Si al temps del Exigent agard, le defendant soit in prison, ouster le meere, ou que le Exigent issera auerment erronice, uncore si le vicont seiser ses biens al oeps le Roy, le defendant nauera restitution de ses biens, tanque le agard del Exigent soit defaite: Et pur ceo in tiels cases, le defendant, ses executors, ou administrators doiens porter lours briefe de Error, de reuerse mesme le Exigent; car intant que le Roy est inutile (a les biens &c.) per matter de record, il besoigne que ceo soit amend per matter de ey haut nature. Vide Co. 5. 111. 43. E. 3. fol. 17. & Fitz. Forf. 19. 31. & Plow. 137. b.

Vncore vide vtlary reuerse per plee sans briefe de Error. Br. Vtlag. 28. 31. 47. 75. 77. & 79. Et Fitz. Index tit. Vtlag.

Si home ad charter de pardon portant date denant le Exigent, la les biens del partie sont saue per ceo, pur ceo que le cause del sauing de eux, appartient de record. Co. 5. 111. Vide Stamf. 184.

Mes nota, que denant pardon de vtlarie serra graunt, si le vtlarie fuit sur originall (denant son apparance) le partie doit primes yeeld luy mesme al prison &c. Et si le vtlarie fuit apres iudgement, le partie doit primes agreee oue le plaintife pur son det ou damages. Vide Stat. 5. E. 3. c. 12. Fitz. Chie de Pardon 27. & 28. & Fitz. Vtlag. 4.

Note that the Sheriffe, nor his officers, may not arrest or attach the bodie of any man that is outlawed in any personall action without a writ of Capias vtlagat. first deliuered to him; but othertwise it is where the vtlarie is for felony or treason. See Dyer 120.

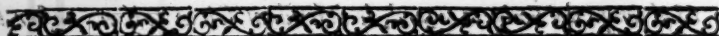
D

Note

Treasure troue.

Note also that the goods of persons outlawed may belong to a subject, by the kings grant, but not by prescription, Co. 9. 27. 29. Pl. 81. b.

There be other things belonging to the King, *quia non apparet dominus eorum*, in regard that the true proprietor or owner thereof cannot be knowne, as Treasure troue, Wrecke &c.



Treasure troue.

Treasure
troue.



Treasure troue dicitur, where money, gold, silver, plate, or bullion is found in any place, the owner thereof being unknowne: And such goods or treasure the king is to haue; and the sherrife is to seise it to the kings vse. And it seemeth to be all one whether it were hidden in the ground, or onely lost, See Br. Coron. 176. & Presentments 24.

But all Mines of mettall (except Mines of gold and silver) doe appertaine and belong to the owners of the soile wherein they are found; and the mines of gold and silver belong to the king. Br. Coron. 176. See Br. Prærogat. 134. & 137.

Also see Master Plowden fol. 314. &c. That if gold or silver bee in Mines, or Ores of Copper, Tinne, Lead, or other base mettalls, the whole Mine pertayneth to the king.

Wrecke

Wrecke of the Sea.

3. Ed. 1. c. 4.



Recke is by the Civilians called Naufragium, *Wrecke*.
where a ship perisbeth at the sea.

Br. Wrecke:

Concerning wrecke of the sea, the Statute
of Westminster 1. (made Anno 3. Ed. 1. cap. 4.)
is thus; where a man, a dogge, or a cat escape quicke out
of the shippe, such shippe or barge, nor any thing within
them, shall bee adiudged wrecke; but that the goods shall
bee saued and kept by the view of the Sherife (or other
officer) and shall bee deliuered into the hands of such as
are of the towne where the goods are found; so that if any
sue for those goods, and proue that they were his, within
a yeare and a day, they shall be restozed to him without de-
lay; and if not, they shall remaine to the King, (as belong-
ing to him by his prerogatiue) and shall bee seised by the
Sherife, or other officer, and deliuered to the towne, who
shall answere therefoze &c.

Note that if the goods within such a ship, be of that sort
that they cannot bee kept sweete and good by the space
of a yeare, there the Sherife, or officer, may sell such
goods, and deliuer the money taken for them, to the towne
to keepe and answere for them. But if the goods were
such as might be kept a yeare, there the goods shall be kept
and preserued during the yeare, or else the officer is punish-
able &c. Pl. 466.

Do & Stu.
cap. 1.

By the Common Law if goods were wrecked, they were
imediately (and ipso facto) forfeited: And now by the former
Statute of Westminster 1. cap. 4. the partie shall haue a
yeare and a day to proue his proprietie, if a man, a dogge, or
a cat shall escape out of the ship aliue: but if nothing escape
out of the ship aliue, it seemeth that the goods wrecked are
presently forfeited to the King, so as the owner shall not be
admitted to proue his proprietie for that this prooue within
the yeare and day is giuen onely where something escapeth
aliue. See Termes of the Law, & Br. Wrecke 3.

where wrecke belongeth to another than to the king, he
shall

Wrecke of the Sea.

shall haue it in like manner as the King should, but there the Sherife is not to meddle therewith: As where the Lord of any Libertie, franchise, or Manor hath wrecke graunted by Charter &c. or hath had any wrecke by Prescription &c.

By the statute made 27.E.3.cap.13. if any ship shall per-^{27.E.3}ish on the sea, and the goods come to land, which bee no wrecke, the owner shall be receiued to proue the said goods to be his owne; and vpon prooffe thereof they shall bee presently deliuered, paying to them that haue saued and kept the same, conuenient for their trauell, by the discretion of the Sherife, or other officers, with the assent of foure or fixe of the best or most sufficient discreet men of the countrie.

Quid.

Master Bracton lib. 3. saith thus hereof. Item magis propriè dici poterit wreccum, si navis frangatur, & ex qua nullus vivus euaferit, Et maxime, si dominus rerum submersus fuerit, Et quicquid inde ad terram venerit erit domini regis: And therewith agreeth the Booke of Entries fol. 611. 612. tit. Trespas in Wrecke. And accordingly also it was adiudged in Sir Henrie Constables case, Co. liber 5. fol. 106. That^{Co. 5. 106.} nothing shall be said to be Wreccum Maris, but such goods only, which are cast, or left vpon the land by the sea: For Wreccum Maris signifijeth, illa bona quæ naufragio ad terram appelluntur.

There be other casuall profits of like natyre, as
Flotsam, Ietsam, and Lagan.

Flotsam.

Flotsam, is where a ship is drowned, or otherwise per-^{Co. libid.}isheth, and the goods float vpon the sea, or swim vpon the water, scz. vpon the top of the water.

Ietsam.

Ietsam, commeth of the french word *letter*, to cast out, ^{Co. libid.}and is when a ship is in perill to be drowned, and for to disburden the ship, the goods are cast into the sea, and after the ship notwithstanding perisheth.

Lagan.

Lagan, vel potius Ligan, is when the goods are so cast into the sea (scz. to disburden the ship &c.) and after the ship per-^{Co. libid.}isheth, and those goods so cast out, are so heauie that they
sinke

Wrecke of the sea.

39

sinke to the bottome, and the mariners, to the intent to haue them againe, doe tie vnto the said goods a corke, or other thing which will not sink, so as they may find them againe; and they are called Ligan à Ligando.

Co. libid.

And so note that wrecke is when the goods are by the sea cast vpon the land, & so infra comitatū, whereof the Common Law taketh conusance; but the other thre (Flotsam, Ietsam, & Lagan) are all vpon the sea, and therfore of them the Lord Admirall hath iurisdiction.

Note also that none of those goods which are called Flotsam, Ietsam, or Lagan, shal be wrecke so long as they remaine in, or vpon the sea, and being vpon the sea, quare if they are not due and belonging to the Lord Admirall by vertue of his Letters Patents,

But if any of them shall bee cast vpon, or driuen to the land by the sea, then they shall bee called and said to bee wrecke, and so the king shall haue them; or any other lord &c. by grant of wrecke from the king may haue them, for that they being cast vpon the land, will passe by the grant of wrecke. Co. 5. 106.

And the king shall haue Flotsam, Ietsam, and Lagan, (remaining in or vpon the sea, (cz.) when the ship perisbeth, or when the owner of the goods is not knowne. Co. 5. 107.

Co. 5. 117.

Note that the ship must perisb, or els the goods cannot be forfeit, nor said to be wrecke. But though the ship perisb, yet if any of the seruants escape, the law saith that they haue the custody of the goods, and so they are not wreck, nor forfeited.

If the ship be broken by tempest, & the goods cast vpon the land, they are not wrecke. Fitz. 112. c.

So if goods are cast into the sea for doubt of a tempest, they are not wrecke, nor forfeit. 46. E. 3. fol. 15. And therewith agreeth master Bracton lib. 2. Res habita est pro derelicta ubi dominus statim definit esse dominus, si autem causa navis allevianda, non sic, quia non ea voluntate eiecit quis, vt designat esse dominus &c.

Co. libid.

Also in sir Henrie Constables case aforesaid, it was adjudged

VVrecke of the Sea.

iudged, that the afore recited statute made 3. E. 1. concerning wrecke, was but a Declaration of the Common Law; and all that is therein contained concerning wrecke, shall be also extended to Flotsam, Jetsam, and Lagan: And that if the owner of such goods shall proue that they were his, within a yeare and a day, they shall be restored to him, and if the owner dyeth, his executors or administrators making prooffe that they were their testators &c. they shall be restored to them.

Note that the yeare and day in such cases shal be accounted from the time of the taking or seisure of such goodes as wrecke, for although that the proprietie be in law vested in the lord before seisure, yet untill the lord (by his officers or seruants &c.) seiseth them, and taketh them into his actual possession, it is not knowne either who claimeth the wrecke, or to whom the owner shall resort to make his claime, and to shew his prooffes, *Vide quel maner de prooffes le owner fera.* Co. 5. 108. a.

If the wrecke belongeth to the King, the owner may haue Co. ibid. ¶ a commission to heare & determine the trueth of such prooffes as the owner shall bring &c. which must be by a Iurie of twelue men.

Also it was there holden, that the king shall haue Flotsam, Jetsam, and Lagan, by his prerogative, although they stil remaine in, or vpon the sea; (for the sea is of the kings ligeance, and partell of his crowne of England &c.) and yet another may haue them by the kings grant, Co. ibid.

Note that at the first the Common Law gaue as well Co. 5. 108. wrecke Flotsam, Jetsam, and Lagan vpon the sea, as Estrays, Treasure troue, and the like to the king: for that by the rule of the Common Law, when no man can claime proprietie in goods, the king shall haue them by his prerogative.

Also note that wrecke is an estray vpon the sea, comming to land, as an estray of any beast is vpon the land comming within any priuiledged place or seignorie &c. And the Law giueth in both cases a yeare and a day to the owner to claime them. Co. 5. 108.

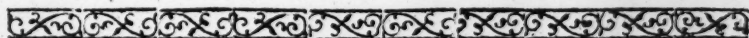
Also if the goods of an infant, woman couert being an executrix,

Executrix, a man in prison, or of a man beyond the sea, shall be wrecked at the sea, if they be not claimed and proved to be theirs within the year and day, they shall be all forfeit, &c. for the Law is strict and binding in this case, as well as in case of an Estray, (whereof see *ante* tit. Estray.)

17.E.2.c.11. By the Statute de Prærogativa Regis (made Anno 17. E.2.) the King shall have wreck of the sea throughout the Realme (except in certaine places privileged by the King,) which Statute also is but a declaration of the Common Law: Co. 5. 108.

Also by the same Statute of Prærog. Regis, the King shall have Whales and great Sturgeons taken in the sea, or elsewhere within the Realme, (except in certaine places privileged by the King) which was also the Common Law before the said Statute, Co. 5. 108. Pl. 315. *Whales, &c.*

Also it seemeth by the Common Law, that the King (by his Prærogative) shall have other fishes Royall taken in the Sea, or elsewhere within this Realme, as the Porpus, &c. 39. E. 3. Br. Prærog. 35.



Wards.

51. H. 3.

By the Statute de Scaccario, made Anno 51. H. 3. *Wards and Escheats.* Sherifes shall seise and keepe all such Wards, and Escheats (that are not in fees) as belong to the King, which be within their shires, and of the issues thereof they shall be answerable in the Exchequer, when they account for their Counties, and they might let to ferme, or otherwise such Wards and Escheats, &c.

2. Ed. 6.

Also by the Statute made 2. & 3. E. 6. cap. 34. it seemeth that Sherifes shall be accountable for all Wards, marriages, and reliefs; and for all fines for alienations and intrusions made by the Kings tenants within their Countie.

31. H. 8.

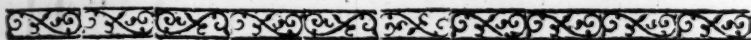
But by the Statutes made 32. H. 8. c. 46. & 33. H. 8. c. 22. & 34. H. 8. c. 46. All the Kings Wards are to be within the order, livery, and governance of the Court of Wards; together with their lands, rents, and issues thereof.

The

Escheates

The King (by his Prerogative Royall) shall haue ^{17.E.2.c.3} the wardship of all their lands, which hold of him in chiefe by knight seruice, whereof the tenants were seised in their demesne as of fee, the day of their death of whomsoeuer they hold, &c.

Also the King by his prerogative of the wardship of the heire, shall haue rent charges, commons, estouers, annuities, aduousons, offices, and the like which descend, &c. to the heire: 12.H.7.Br.Prerog.63.



Escheates.

Escheates.

DE haut Treason, le Roy auera le escheat, de quocunque tennerit, 22.Aff.pl.49.Br.Eschat 14.

On le tenant est assaint de felonie, il est al election del seignior d'auer brieve de escheat, suppose que le tenant fait Assaint de felonie, ou que il deuie sans heire, car per lastainder le sanke est corrupt. 48.E.3.fol.2.

Si hōe fait felonie, & puis purchase terre ou terre descend a luy apres, ceux terres sont forfeit & escheat, cybien cōe le terre que il auoit al temps del felonie fait, ibidem.

Home assaint de heresie, son terre ne escheater, sinon que il soit mise al execution; & donque si le terre soit tenus del Roy, il auera le escheate. Auxy si le terre tenant fuerit de Ordinario, donque le Roy auera ceo per escheate, per stat' 2.H.5.cap.7. mes cest stat' semble desleapeale per stat' 1.Edw.6.cap.12. Br.Esch. 36

Roy auera le escheates del tenants, del Archieuesques, & Euesques in temps de vacation, 17.Edw.2.cap.14.vide hic antea Forfeit'.

Roy auera le escheate de tous les tenements in London, de quocunque ils sont tenus; 49.Ed.3.5.Fitz.Prerogat' 15.

Omnes escaeta, ciuitatum mero jure pertinent dño Regi, de quibuscunque feod tentæ sunt, 8.Ed.2.Fitz.Esch.12.

Alien

Alien nee ad issue fits, & puis est fait Demisen, & purchase terre & denie, tiel fits naucra la terre, mes Escheater.

Home ala vltra mare, extra alledg' Regis, sine licentia Regis, & la espousa feme, & ad issue fits illonque, & denie la, tiel issue ne inheriter mes le terre escheater, Br. Esch. 8.

Fits est attain de felonie in vie le pere, & happa Charter de pardõ, le pere denie, & le fits suruiue, le terre Escheater, ibidem.

Le eigne fits est attain de felonie, puis son pere denie, le terre le pere Escheater 49. Ed. 3. Br. Discent 7.

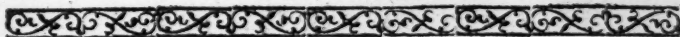
Ou heire faulte per demy sanke, ou de part le pere &c. le terre Escheater ibidem.

Terre saile ne escheater pur le felonie, ou per le attainder, del pere 29. Aff. pl. 61.

Rent ne Escheater, car le terre est tenuis, & nemy le rent.

Nota que si tenant le Roy denie sans heire, & nul enter, le frankement est in le Roy, sans office, ou entre, car frankenement ne poet merger, 9. H. 7. fol. 2. Br. Escheat 25. & 33. Plow. 229. b.

But quære what the Office or authoritie of a Sherife is, at this day, concerning Wardes, or Escheates.



Ideots.



If there shall be an Ideot (sc. a naturall foole, *Ideots.* a Natiuitate) there may bee a writ awarded to the Escheator, or to the Sherife, of that Countie where such Ideot is abiding, to enquire of such Ideot, and of his lands &c. Fitz. 232. 233.

17. B. 2. 42. 9.

Le stat' de Prerogatiqa Regis, est quod Rex habebit Custodiã terrarum fatuorum naturalium, capiendõ exitus eorundem &c. Et coment que le dit stat. dit Custodiam terrarum, vncore le roy auera cibien le custodie del corps, biens, & chateux del Ideots come de lour terres &c. & cybien ceux terres que il ad per purchase, come ceux queux il ad come heire &c. Co. 4. 126.

Mes

Direction and Execution of Writs.

Mes le roy nauera le Custodie del terre, que le Ideot teigne per copie; car ceo nest que estate a volunt &c. Co. ibidem.

Auxy le Roy nauera les profits del terre &c. forsque apres office troue; car per loffice appiera de record que le Roy ad drois de seiser les terres Co. 8. 170.

Et sic nota que le roy seisera le terres de Ideots, (& l'heire suera a liuerie;) mes auerment est de terres de Lunatiques, & de terres del Ideot per accident ou infirmitie, Co. 4. 126. & Br. Ideot 5.

Quel person serra dis Ideot, & quel Lunatique, vide Co. 4. 124. 128. Fitz. 233. b.

Le manner del Triall del Ideot. Co. 9. 31.

Que auera le ordering &c. del terres del Ideots; vide Stat' 32. H. 8. cap. 46. P. Prerogat. 10. & Wards 27.

Direction and Execution of Writs.

A que bre-
ues seront
direct.



The office of a Sherife consisteth chiefly in the execution and serving of writs and proses of Law: and to doe this he is the immediate Officer of the King and all his Courts (scz. to execute the writs of the Common Law:) And hee is sworne that hee shall truly doe this, and hee must doe this without any fauour, dread, or corruption.

Dyer 60. b.
Plow. 74.

Al Vicont.

By the ancient Law of this land, all Originall writs (purchased at the suit of the partie to maintaine actions) are to be directed to the Sherife, and cannot bee directed to any other, vnlesse it be in speciall cases to the Coroner, who then standeth in the place of the Sherife.

Co. 3. Pref.
Br. offic. 2.

Al Coroners

As where it is alleaged by either partie (scz. by the plaintife or defendant, &c.) that the Sherife is cosen, or otherwise of kindred, or tenant to the other partie, and the other partie doth not deny this: in such cases processe shall be directed to the Coroners of that countie, and shall be executed by them: Br. Chell. 78. Officer 14. & Proces 63. 70.

So where the Sherife is a^b partie to the suit, the processe shall be directed to the Coroners.

b 12. H. 4. 24
8 H. 6. 28.

And

And yet you may observe much contrariety in our bookes herein, for some hold a difference where the Sherife is plaintiff, and where defendant; for where hee is plaintiff the processe shall bee directed to him against the defendant, and he may serue it himselfe (scz. the summones and Capias, and other like originall processe shall be directed to him against the defendant) except the pannel of the array which hee shall not make, and except where he is named Sherife in the writ, for there the Coroners must execute it: And it seemeth that the writ to the Coroners in such cases is, that the Sherife, se non intermitat. 18 E. 4. 7. See Br. Proces. 9. 14. 15. 58. & 118. And where the Sherife is plaintiff hee may serue the processe vpon the defendant, and he or his Undersherife for him may after wards put in pledges (de prosequendo) in the Chancery, or in the Court of Common Pleas where the writ dependeth, and when they come to issue, he, or the defendant may shew that he is a Sherife, and then the venue facias shall be directed to the Coroners.

And yet see Br. Proces. 106. 118. 140. the contrarie, scz. that the processe shall goe to the Coroners wherefore the Sherife is a party, and that there should be no diversity where he is plaintiff, and where defendant, and that hee may neither serue processe vpon himselfe, nor for himselfe: Ideo quare. 5. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

If the Sherife be defendant, he cannot serue the processe vpon himselfe: 2 H. 6. 4. 3. H. 6. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

Neither can he distraine nor warne himselfe. And yet the bookes vary in this also: see 18. H. 3. 3. Fitz. & Register. 81. b. & The L. 107. 108. vide Plow. W. in his Case, an originall writ, de iussu de iussu directed to the Coroners was aduouched good, in regard that assises ought to be speedie, &c. But otherwise there seemeth a difference betweene other writs originall, that they in all or most cases shall be directed to the Sherife, but that Iudiciall writs may be directed to the Coroners: see Plow. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100.

But (in an Assise of iussu de iussu) if the Sherife by craft to haue the writ directed to the Coroners be named one of the disseisors where indeed hee is not disseisor, nor ever was disseisor or tenant of the lands in demand, the tenant in the said Assise may auer this coun, or the Sherife may shew this matter and coun to the Court, and pray that it may be inquired of, and if it be found that the Sherife was no disseisor, but was named disseisor by collusion, then shall the

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the writ be abated, and the plaintife in the grieved mercie of the King: 11. H. 6. c. 12. Fitz. N. Br. 155. a.

Default.

Also in some cases where the Sherife maketh default of serving the proces, it shall be directed to the Coroners: see Fitz. Proces 48. 51. Br. officer. 43. & Fitz. fol. 54. e.

And in some cases proces (scz. an attachment) shall be directed to the Coroners against the Sherife, for his default in not serving or returning proces, &c. Fitz. 54. e. 62. o. 64. b. 68. e. 98. c.

Partialtie.

So where partialtie is found in the Sherife in returning the Array (or Jurie) partially, and thereupon the Jurie is quashed, there proces shall goe to the Coroners; and in such cases also the writ to the Coroners is that the Sherife shall not intermeddle: 18. E. 4. fol. 30. n.

Br. Proces 155.

Co. 10. 103. 104.

But if the Sherife be dead or remooved, or that otherwise there be no Sherife, there the proces shall not be directed to the Coroners, for that the Sherife being the immediate officer to the court, proces shall goe to the Coroners only in speciall cases; as where it is alleaged that the Sherife is of kindred, or tenant to either partie, or that the Sherife is partie to the suit, vt supra; or that the Sherife made default, or is found partiall, vt supra: in such cases proces shall be directed to the coroners, and otherwise not.

Br. Proces 70.

If the venire facias be awarded to the coroners, where it ought to haue bene directed to the Sherife, or è conuerso (and so the Jurie be returned by such as haue no authoritie) it is error; and is not remedied by the Statutes of Jeofayles: Co. 5. 36. & 8. 152. 163.

Note where the Originall Processe is once directed to the coroners, all the residue of the proces in that suit shall ensue the originall, and shall likewise be directed to the coroners, yea although that Sherife be remooved, or dead, or acquitted, and another indifferent Sherife bee chosen depending that suit & proces: see Br. Proces 4. 73. 118. 144. 155. & 183.

If proces goeth out Coronatoribus, and there be foure coroners, it seemeth any two of them may serue and execute, or returne the proces, for the plurall number Coronatoribus is obserued: but one of them alone cannot execute or returne such proces, although all the rest happen to be dead: Br. Ret. 42. see Br. Ret. see Co. 4. 46.

14. H. 4. 34. 39. H. 6. 40.

And yet by the booke 31. aff. 20. Br. Officer 22. the returne must be by all foure: And contrariwise by the booke 39. H. 6. Br. Retorne 66. if thre Coroners dye, the fourth may execute the processe until moe Coroners be chosen, Ideo quare. where

Direction and Execution of Writs.

43

Br. Ret. 12

Where Proces goeth out to the Sherifes of London or
Dorke (there being two Sherifes) and one of them returne
the writ alone, it is not good, although the other bee dead:
and yet it is vled that one of them doth serue the writ, and
that is the seruing of them both; but when it is returned,
that must be in the names of both of them: 21. aff. 20. Br.
officer 22.

Br. Proces
155.

For fauour in the Undersherife (sc. where he is of kindred,
ac. to either partie) that being alleaged, Processe shall bee
directed to the high Sherife, with this clause (as it see-
meth) that the Undersherife shall not meddle.

Br. Proces
58. 71.

But if both the Sherife and Coroners shall bee found *Al Esliors.*
partiall or faultie, then the proces shall be directed vnto cer-
tain other persons to be chosen or named by the Court, (by
the assent of the parties as it seemeth) which persons vpon
a venire facias to them directed, shall make a returne the pan-
nell, and after the returne thereof, they shall serue and exe-
cute all other the Processe which shall follow thereupon, as
the Sherife himselfe should haue done if the Processe had
beene directed to him: see 15. E. 4. fol. 24. Bro. Chall. 69.

Br. Proces
14. 61. 64. &
127.

Sometimes also Proces shall be directed to the Bishop, *Al Evesques*
ac. as where the defendant is named or returned to bee a
Clerke, Non habens laicum coedum, there a venire facias
Clericum shall go to the Bishop; and by vertue of this writ,
the Bishop shall sequester the benefice of such Clerke, to
compell him to appeare and answere, and must also
warne his person to keepe his day, ac. and if the defendant
commeth not in at his day, a distringas Episcopum shall goe
out to the Sherife, to cause the Bishop to make his Clerke
to come in: and thereupon may the Bishop sequester all the
benefices of the defendant, and shall answere to the King
for the issues thereof, ac.

But if the Bishop be a partie to the suit, there the Proces
shall bee directed to the Metropolitane: see 34. H. 6. fol. 29.
Br. Ret. 118.

Wastardie being pleaded in an Affise, a writ went out to
the bishop to certifie, ac. who certified the partie to be *Mulier.*
reciting the writ word by word, but did not send the writ
with the Certificate, and for default of sending the writ,
the Certificate was adjudged void: 41. aff. 19. Br. 81.

Excommunication being pleaded in disabling of the plain-
tiffe, it ought to be certified by the Bishop (who is the imme-
diate

Direction and Execution of Writs.

diat officer to the Court) and such certificate ought to comprehend specially the cause of the excommunication, &c. that the Judges may iudge thereof, &c. But this may be pleaded (being shewed vnder the Bishops seale) without any writ to the Bishop to certifie the same; Co. 8. 68. & Lit. 201.

Al Lientenant del Tower.

Also in some cases the Constable or Lieutenant of the Tower shall receive & execute the Kings writs; as where the Mayor and Sherifes of London be faultie, &c. see the statute of 28. E. 3. c. 10. & 1. H. 4. c. 15.

Al Iustices.

Sometimes writs shall be directed to the Iustices, &c. as writs of Errour to the Iustices, &c. before whom the Judgement was given; And writs of audita quærela, to the Iustices before whom the plaintife is to haue remedie.

Al Signiors.

Sometimes writs shall be directed to the Lords of who the lands are holden: Plo. 74. Sometimes to Stewards, Mayors, Bailifes, or other officers of Mannors, Cities, Boroughs, or Townes, within which the lands doe lie. Thel. 107.

Al parties.

And sometimes writs shall bee directed to the parties themselves of whom complaint is made, as the writs of Monstraverunt, de ne iniuste vexes, de Estrepiamento sometimes, and sometimes writs of Prohibition, &c.

Deliverie of Writs.

Sherifes and Undersherifes shall receive all manner of writs in any place, and at all times within their Countie, when and wheresoever they shall be delivered them, without taking of any thing, and shall make thereof warrant. 1. E. 3. c. 5. Cromp. 203

If any man doth feare the malice, indirect dealing, or negligence of the Sherife, &c. in the execution of any writ, they may deliuer their writs in the open Countie Court, or in any other place in the Countie, and may take of the Sherife or Undersherife being present a bill, where- in the names of the Demandantes and Tenants mentioned in the writ shall bee contained, whereto vpon request made by him which delivered the writ, the Sherife or Undersherife shall put to their seale for a testimony, without taking any thing therfore, and mention shall bee made therein of the day of the deliverance of the writ: and if the Sherife or Undersherife shall refuse to put his seale to such bill, others that bee present shall set to their seales to such bill for witness therof. W. 2. c. 28. & 23 c. 5. P. Rel. 1.

And

13.E.1.39.

And if the Sherife or Undersherife make not a due re-^{Nient Re-}
turne of the said writs deliuered vnto him, the Iustices of ^{turne.}
Assise shall haue power to enquire thereof, by those that
were present when the writ was deliuered, &c. And if the
Sherife bee found in fault hee shall bee punished, and shall
peeld damages to the partie griued (hauing respect to the
quantitie and qualitie of the action, and to the perill which
might haue chanced vnto him by the delay which hee suffe-
red:) see the booke of Assises, Lib. 29. pl. 58. Br. returne de
breue 72. & Officer 40.

Pea the Iustices of Assise haue power to enquire thereof
at euerie mans complaint, and to award damages vt supra.
2.E.3.c.5.

Also by this meanes remedie may be had when the Sherife ^{Tarde.}
&c. shall returne that the writ came too late, wherby he could
not execute the Kings commandement: 13.E.1.c.39.

Also the like remedie is giuen when the Sherife, &c. shall ^{Faux Re-}
make a false returne of any writ (wherby right is deferred) ^{turne.}
and the offendors making any such false returne, shall peeld
damages to the partie griued, vt supra, 28.E.1.c.16.

Lambr.91.

ALl writs and Proses directed to the Sherife, are vsta-^{Que exequ-}
ally deliuered to the Undersherife and executed by him. ^{ter.}
And yet the high Sherife may execute them himselfe, or
the high Sherife may command his Undersherife, Bayliffe,
or other swozne or knowne officer to serue or execute them,
and such commandement of the Sherife by word onely is
good.

22.H.7.23.a.

But if the Sherife will command another man (that is
no swozne or knowne officer) to serue or execute any writ,
Processe, or other Warrant, the Sherife must deliuer him
the writ it selfe, or else a Precept in writing, otherwise an
action of false imprisonment will lie for the arrest, Lam-
bert 91.

And yet the Sherife may commaund his seruant by
word onely (without any Precept in writing) to serue
or execute any Processe, and it is good: and so any
stranger by the commandement of the Sherife, and as
a seruant to the Sherife, may iustifie to serue and exe-
cute any Processe vpon the bodie or goods of another, or to
seise the goods of any person that is vblawed, &c. and that
without any Precept or Warrant in writing: see Br. faux
impr. 43. & trespass. 339.

Direction and Execution of Writs.

*How to be
executed.*

If the writ or other Proccesse commeth to the Under-
sherifes hands, hee must make his warrant to the Bay-
lifes, and other such Officers in the high Sherifes name.

If the high Sherife (or Undersherife in the high She-
rifes name) vpon any writ or Proccesse to them directed and
deliuered, shall direct their warrant to their bailifes, or any
other such officer (to arrest one, or otherwise to execute such
writ or Procces) such bailife or other officer must serue or
execute it himselfe: for these can command none other to do
it neither by word nor writing.

Lambt. 91.

And so it seemeth if the high sherife shall direct his war-
rant to his vndersherife, the vndersherife must execute it
himselfe, and can command none other to do it.

*Posse commi-
tarius.*

Note that the vndersherife, bailife, or other such officer
may (if need be) take posse committarius, i.e. what number of
other persons they shall thinke good to execute any writ,
Proccesse, or other lawfull warrant to them directed, and
such as shall not assist them therein being required, shall
make fine to the King.

A warrant directed (by the high sherife, or vndersherife)
to the bailife or other swozne officer, and to a stranger (or
speciall bailife, who is no swozne or knowne officer) and the
warrant is made to them, coniunctim & diuifim, and is exe-
cuted by the stranger, this is good.

A warrant is directed to two men ioyntly to arrest ano-
ther, yet either of them alone may do it: Lambt. 91.

The formes of Warrants to be made vpon meane Pro-
cces: see hic postea.

*Not to dis-
pute the
Authority.*

The Sherife nor his Officers are not to dispute the au-
thoritie of the Court, from or out of which they shall re-
ceiue any writ, Procces, or other warrant: but they at
their perill are to execute all writs, warrants, Procces,
and Precepts of the Judges, Iustices, or Court to them
directed, and to this also they are swozne: And therefore
wheress there was an information preferred in the Star-
chamber (termino Michaelis Anno 3. Iacobi Regis) by the
Attorney generall, against diuers Serieants of the Place,
and others, for arresting the bodie of Isabella Countesse
of Rutland, by force of a Capias ad satisfaciendum, vpon a
Judgement in debt giuen in the Court of Common Pleas
against the said Countesse, it was resolved for good Law by
Egerton Lord Chancellor, Popham and Gawdie chiefe
Iustices, Fleming chiefe Baron, and by all the Court of
Star-

Ca. 6. 54. 9.
68. 8. 10. 70.
D. & St. 150.

Star-chamber) that the Sherife, or his officers by his warrant, without any offence (of Law) might execute the said writ upon the bodie of the said Countesse: And although it appeared in the Capias that shee was a Countesse (against whom by Law no Capias in such case lyeth, Et quod ignorantia Iuris non excusat:) yet for as much as in some cases, (as in cases of contempt, &c.) a Capias doth lye against a Countesse (or against any Peere of the Realme, &c.) for that cause it was there resolved, that the Sherife and his Officers or Ministers ought not to examine the iudiciall act of the Court, but ought to execute the writ.

And with this agreeth the opinion in 36.H.8.Dyer f. 60. that if a Capias (in an action of Debt) or an Exigent, or a writ of execution shall come to the Sherife against a Duke or Earle, &c. whereas it lyeth not against such persons, yet the Sherife ought to serue and execute such writ or procelle, and not to argue and dispute the validitie thereof: see Co. 2. 68. & 10. 76. b. accordant.

Dyer 60.

A Burgesse of the Parliament was taken, arrested, and imprisoned by the Sherife upon a writ of Exigent, which issued upon a Capias ad satisfaciendum, and after a writ of privilege was granted from the Parliament; whereupon the Sherife let the prisoner goe at large, and it was holden that the privilege was grantable notwithstanding the execution, for that the King and the Realme have interest in the bodie of everie Burgesse (and other members of the Parliament) and the Common-wealth shall be preferred, and the partie may bee afterwards taken in execution againe: but admitting that a writ of privilege had not been grantable in this case, yet it was holden that the Sherife should not bee charged for such his letting of the prisoner goe, hee being commanded thereto by authoritie of Law, and not done of his owne head onely; and besides hee is bound to execute all procelle of Law, as well by his Oath, as by his Office: and the Sherife is not bound to take notice of the Law, for the Law intends him to be a lay person, and not to have knowledge of the Law: so that where as a writ shall come to him by authoritie or without authoritie, hee may not argue or dispute it: and therefore if a Capias shall come to the Sherife without any originall, and hee shall serue it, hee is excusable in an action of false imprisonment: for the Sherife being the officer and minister of the Court,

* Yet in some cases the Law is otherwise: see fol sequente.

Direction and Execution of Writs.

Court, it shall be against reason to punish him for executing the process and commandment of the court, and the rule is, *Quicumq; iussu Iudicis aliquid fecerit, non videtur dolo malo fecisse, quia parere necesse est*: Co. 10. 70.

And yet this difference is to be taken: scz. when a court hath jurisdiction of the cause, and shall proceed in verso ordine, or erroneously; there the Officer or Minister of the court, which shall execute the Precept or Process of the court is excusable, so as no action will lye against him: But when the court hath no jurisdiction of the cause, there all the proceeding is *coram non Iudice*, and therefore there an action will lye against the Officer without any regard had of the Precept or Process of the court: And as to the former rule, *Quicumq; iussu Iudicis aliquid fecerit, non videtur dolo malo fecisse, quia parere necesse est*, the Law well alloweth thereof; But when hee hath not jurisdiction of the cause, non est Iudex, and it is not of necessitie to obey him who is not Judge of the cause, no more than it is to obey a meere stranger, for another rule is, *Iudicium a non suo Iudice datum, nullius est momenti*; And accordingly in 22. Edw. 4. fol. 33. Pigott saith, That if the court hath not power and authoritie (in the cause) then their proceeding is *coram non Iudice*.

Also by the booke 21. ass. pl. 64. it is holden, that where an erroneous Judgement is given in any court, the officer which maketh execution is excused: but contrariwise, where the court giveth Judgement of land, contract, or the like, which lyeth out of their jurisdiction, as where an action is brought in a court, of land which lyeth out of their jurisdiction, or of a contract which was made out of their jurisdiction, and the Demandant or plaintife recovereth and hath execution, there an Writte, or an action of Trespasse will lye against the officer, &c. which maketh the execution, for all the proceeding is, *coram non Iudice*.

Also by the booke 14. H. 8. 16. if a Justice of Peace shall make a Warrant to arrest one for felonie, who is not indicted, the Justice doth erre in the granting of such a Warrant, and yet the Bayliffe, Constable, or other Officer shall serve such a Warrant: this is a good justification of the Officer in an action of false imprisonment (notwithstanding the Justice did erre in making the Warrant) for the Justice of Peace is a Judge of the cause,

The

Direction and Execution of Writs.

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14.H.8.16

The same law is where the Sherife doth erre in his warrant directed by him to the bailife of a franchise, or to his owne bailife, Br. Faux Imprif. 8.

24.E.3.9.

So vpon a Commission from the King granted out for the arresting of any person though it should be against the law, yet the Commissioners, or those to whom the Commissioners shall direct their Precept or warrant (for arresting of any such person) may execute and iustifie the same, Br. Faux Imprif. 9.

But vpon an action of false imprisonment, where the defendand iustifieth as Sherife of C. and that he arrested the plaintife by force of a Capias &c. this is a good plea, so as he pleadeth that this was the same imprisonment, Br. Faux Imprif. 19.

And so noter that in some cases the Sherife, or other officer, is bound at his perill to take knowledge of the law, as in the cases aforesaid, where the Court, Judge, or Justice, having no iurisdiction of the cause shall grant out any Process, writ or warrant &c. and the officer shall execute the same &c.

The officer to take knowledge of the Law.

Fitz 66.f.

So if a writ de homine replegiando cometh to the Sherife (which writt commandeth the Sherife to make Delivrance of the bodie except the prisoner be in, per speciale preceptum nostrum, vel capital' iustic' nostri, vel pro morte hominis, vel pro foresta; vel pro aliquo alio recto, quare non sit replegiabilis :) yet the Sherife shall be amerced if he deliver a prisoner for Redisseisin without speciall commandment, see Statute Marl. cap. 8. Fitz. Natura Breuium 189.c. Dyer 60. 61.

West. 1.
cap. 12.

And so of a prisoner condemned in arrerages before auditors, if the Sherife or gaoler, shall deliver him vpon a writ de homine repleg', or otherwise, without the assent of his Master, it is an Escape, and the Sherife &c. shall pay the Debt &c.

The

The Officers duetic.

The Officers duetic.



He officer to whom any warrant shall bee directed and delivered, ought with all speede and secrecy, to execute his said warrant, and besides hee is bound to pursue the effect of his warrant in euerie behalfe, or otherwise his warrant will not excuse him.

21.H.7.23.a

*Shew the
warrant.*

A swozne and knowne officer (be he Sheriffe, Undersheriffe, Bailife, or Seriant) needes not to shew his warrant when hee commeth to serue it vpon any mans person, or goods, although the partie demaundeth it: But a speciall Bailife, or other person who is no swozne and knowne officer must shew their warrant to the partie, if he demaunds it, or otherwise the partie may make resistance and needes not to obey it.

Co.9.69.
21.H.7.23.
& 37.

And so of the Sherifes seruant, or Undersherifes seruant, being no swozne Bailife, they cannot arrest a man without shewing their warrant, if it be demanded.

And yet no speciall Bailife is bound to shew his warrant without demand thereof. 8.E.4.14. 14.H.7.9. Co.9.69.

But euerie Bailife and other person that will iustifie the imprisonment of the bodie of any other, by force of any warrant, must shew the same warrant in Court &c. And therefore it behoueth all Bailifes and other such officers to keepe safely by them all such their warrants.

Ca.10.92.

*Or declare
the contents.*

A swozne and knowne officer, if he will not shew his warrant to the partie (as he needes not) yet vpon the arrest the officer ought to declare the contents of his warrant, (scz. at whose suit he maketh the arrest, for what cause, out of what court, and into what court, and when it is returneable) to the end, that if it be vpon an execution, the partie may pay the money, and so free his bodie from imprisonment: and if it be vpon meane proces, that the partie may either agree with the other, or else that he may put in sureties and baile for his apparance according to law, and to knowe the day of his apparance.

Co.9.62.69
& 6.54.

But this (scz. that the officer vpon the arrest ought to declare the contents of his warrant vt supra) must be understood, when the partie arrested, or to be arrested, shall yeeld and

Ca.9.69.a

and submit himselfe to the arrest, and not when he maketh resistance, or flieth.

Co. 9. 69. b. Note where our Law bookes or statutes, doe speake of a knowne bailiffe or officer, they are not to be understood (neither is it needfull) that such bailiffe or officer bee knowne to the party who is to bee arrested, but if he be so commonly knowne it sufficeth.

Co. 9. 69. And an officer giveth sufficient notice what he is, when he saith to the partie, I arrest you in the Kings name; and in such case the party at his perill ought to obey him, though he knoweth him not to be an officer, and if he have no lawfull warrant, the partie arrested may have his action of false imprisonment against him.

Dyer 344. Fitz. 93. d. If any officer doe arrest a man before that he hath any warrant, and then afterwards doth procure a warrant (or a warrant cometh after to him) to arrest the partie for the same cause, yet the first arrest was wrongfull, and the partie grieved may have his action of false imprisonment against the officer: Br. faux imprisonment. 8. Sans garrant

43. Eli. ca. 6. 1. Jac. ca. 25. If any Sheriffe, Undersheriffe, or other person having authoritie, or taking upon him to breake up writs, doe make any warrant for the summons of any person, as upon any writ, proces, or suit; or for the arresting or attaching of any person or persons by his or their bodie or goods, to appeare in any his Majesties Courts at Westminster, or elsewhere, not having before that the originall writ or processe warranting the same, upon complaint thereof made to the Judges of Assise of the Countie where the offence shall be committed, or to the Judges of the court out of which the proces issued, as well the partie that made such warrant, as also those that were the procurers thereof, shall bee sent for by the same Judges, and be thereof before them examined upon oath, and if the same offence, shall be confessed by the offenders, or proved by sufficient witnesses (to the satisfaction of the same Judges) the same Judges shall forthwith commit everie of the same offenders to the gaole, there to remaine without baile untill they have payd (amongst them) tenne pounds unto the partie grieved and such costs and damages as the same Judges shall set downe that the partie hath sustained thereby, and withall twentie pounds a peere to the king for their said offence. Sans original.

Br. faux imprisonment 31. And yet where a Capias &c. shall goe out to the Sheriffe without an original and he doth execute and serve the same, an action of false imprisonment will not lie against the Sheriffe

The officers duetie.

*Two men of
one name.*

rise, for it was not his fault, by Hank. 11.H.4.36.

Where there be two or three knowne by the name of I.S. 11.H.4.90.
and vpon proces granted out against one of them the offi- Br. Officer 8
cer arresteth another of them (where it is not the defendant)
or attacheth the goods which are not the defendants
goods, the officer shall be a trespassor; and if the plaintife
had shewed the officer the wrong man, or goods, and had
told him that, that had bene the defendant, or those had bin
the defendants goods which were not, there both the plain-
tife and officer are trespassors; but it is otherwise vpon
such information, in making of the view of land, for that
is neither seisin, nor an arrest. See L.5.E.4.fol.51.& 84.

Where a warrant is granted out against I.N. the sonne
of W.N. and the officer thereupon arresteth I.N. the sonne
of T.N. although in trueth he be the same person that offen-
ded, and against whom the complaint was made, yet this
arrest is tortious, and the officer subiect to an action of false
imprisonment. See the like matter 10.E.4.fol.12. Br. Faux
Impris. 38.

Escape.

If an officer hath arrested a man by vertue of a Capias, Cróp. 214.
or vpon a Lattitat, and then giueth him a day to come to
him againe with sureties to be bound for his apparance &c.
and so the officer letteth the partie goe, who comes not a-
gaine at his day appointed; here it seemeth that the officer
cannot take his prisoner againe by vertue of his former
writ or warrant, for that the officer gaue the prisoner leaue
&c. As where a man is in execution for debt, and the sherife
or gaoler licenseth him to go at large for a time, and then to
returne, and he commeth againe at the time, yet this is an
escape; And so it is adiudged in Boytons case Co.3.fol.44. Co.3.44.
and in Rigewaies case Co.3.fol.52. But if the partie arrested
(or the prisoner) had escaped of his owne wrong, without
the consent of the officer, then vpon fresh suit made, the offi-
cer may take him againe, and againe, so often as he esca-
peth, although he get out of view, or that he shall lie into
another countie, See Br. Faux Imprisonment 18. & Br. Escape
4. 12.

*Warrant of
the old sherif.*

If an officer shall arrest another by force or vertue of a Cróp. 205.b
warrant of the old sherife, after that the sherif is discharged
&c. an action of false imprisonment will lie both against the
sherife and against the officer for such an arrest.

*To arrest one
that is arre-
sted before.*

If a man be taken and imprisoned vpon a warrant from 2.H.7.1.
a Justice of peace in the countrie, for suretie of the peace, or Br. Retorne.
for some riot, or forcible entrie, or the like, and after a Capias 83.
com-

meth out of the Kings Bench, or Common Place &c. to the sherife to attach or arrest the same person, and the sherife upon the Capias returneth all this (and bringeth the prisoner into the court) yet the prisoner shall first answer to the plaintife, and after his answer put into the court he shall go vnder baile, and then be remitted or sent backe by the sherife into the countrie, there also to make his answer before the Iustices of peace; so that the sherife vpon a Capias to him deliuered to attach or arrest such a prisoner, formerly committed to the gaole by the Iustices of peace is to bring such prisoner into the court vpon the Capias, as it seemeth.

Co. 5. 83.

Note that when a man is in the custodie of the sherife by proces of law (or by force of any lawfull warrant) and after another writ is deliuered to the sherife to take the bodie of him that then is a was in his custodie before, now presently is that prisoner in the custodie of the sherife by force of this second writ, and in such case if the sherife shall refuse to take the second writ, or shall not keepe the prisoner thereupon, it is an escape in the sherife; and so the sherife in this case must be answerable for his prisoner, although he donot arrest him by the second writ.

Escape.

where the defendant being taken at the kings suit, vpon a Capias vtlagatum, or vpon a Capias pro fine, shall be presently in execution for the plaintife, See hic postea tit. Executio fur Capias ad satisfac.

40. E. 3. c. 5.
1. R. 2. c. 15.
See stat. 1.
Mac. p. 3.

If any of the kings officers, or other person, do arrest any Minister, or other person, which is doing any diuine seruice in the church, churchyard, or other place dedicated to God, he shall be imprisoned, and punished at the kings pleasure, and further shall recompence the partie arrested; but no people of the church shall keepe them within the church by fraud or collusion.

This place.

And yet the sherife or other officer may serue proces, and execute the kings writ within the church, so that it be not done to the disturbance of diuine seruice. See 6. H. 4. fol. 3. & hic. Retorne de sanctuarie fol.

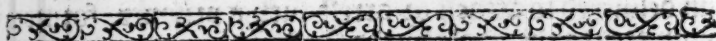
Cc. 9. 66.

The sherife or his officer may make an arrest, or execute any proces, or do any other ministeriall act vpon the Sabbath day, or in the night time, and that as well at the suit of a subject, as at the suit of the king; for the officer of iustice ought to execute his office whensoever hee can finde the partie,

The time.

Warrants vpon meane Proces.

partie, otherwise peradventure they shall neuer execute their Office nor arrest him, quia qui malè agit, odit lucem; and if the Officer shall not arrest him when hee findeth the partie and may arrest him, the plaintife shall or may haue his action of the case against the Sherife or Officer and shall recover in damages, whatsoeuer he loseth or is indammaged thereby.



Warrants vpon meane Proces.

*Warrants sur
meine Pro-
cesse.*

Now for that the Sherife hauing all wrytts and proces directed vnto him as aforesaid, and yet it being a thing impossible for him to execute them himselfe, i.e. for him to doe execution of all, therefore the Sherife (or his vnder Sherife, to whom such Proces usually are deliuered) are to make out Warrants, to their bailifes or other officers, for the execution of such meane proces.

And these Warrants must be made according to the severall natures of the wrytts, which for the substance will direct them therein.

And yet the Sherife may arrest a man, when hee hath a wrytt, without making any Warrant; and so may his seruant (or any other person by the Sherifes commaundement) where the Sherife shall deliuer him the wrytt, 2 I. H. 7. 23. a.

But if the Proces cometh to the vnder Sherifes hands hee must make out these Warrants in the High Sherifes name.

The forme of a generall Warrants.

A. B. miles vicecomes com̄ predicti balliuo Hundredi de R. Canteb. salutem. Ex parte domini Regis tibi mando quod capias I. S. si &c. Et eum saluo &c. Ita quod habeam corpus eius corā Iusticiis domini regis apud Westmon in octabis sancti Hillarij ad respondendū C. D. de placito debiti (or transgress. according to the wrytt.) Et hoc &c. Datum sub sigillo officij mei decimo die Aug. Anno regni domini regis nunc Angliæ &c. xx.

per A. B. milit' vicecom.

The

Warrants vpon meane Proces.

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The forme of a speciall Warrant.

A. B. Miles vic' com' præd' ballivo hundredi de R. necnon *J.W. Cantabr.*
T.B. ballivis meis hac vice, & eorū cuilibet salut'. Ex parte
 dñi regis vobis & cuilibet vrum conjunctim & diuifim mando,
 q' capiatis seu &c. *I.S.* si &c. & eum salvo &c. Ita quod habeam
 corpus ejus * coram dño rege apud Westm. die Iovis prox' post
 Octab. sancti Hillari ad respond' *C.D.* de pñito transg'r &c. Datū
 &c. vt supra.

* **Note if the writt commeth out of the Kings Bench,**
 then the Warrant must be, Ita quod habeam corpus ejus corā
 domino rege &c.

But if the writt come out of the court of Common pleges,
 then it must be, Ita quod habeam corpus ejus coram Iustic' do-
 mini regis &c.

Another good forme of a Warrant.

W. 14.

A. B. miles vic' com' præd', omnibus ballivis meis (vel omnib' *Cantabr.*
 ballivis infra com' præd') tam infra libertat' quā extra, Nec-
 non *I.B.* & *C.D.* ballivis meis hac vice tantum, salutem. Ex parte
 domini regis vobis & cuilibet vestrū conjunctim & diuifim mā-
 do, quod Capiat' seu, &c. *I.S.* si &c. Et eum salvo, &c. Ita quod
 habeam corpus eius, Coram, &c. vt supra.

This last warrant is a good forme to bee vsed vpon exe-
 cutions, or vpon Capias vtlagatum, &c.

Another plaine forme of a Warrant.

Decimo die Aug. Anno Domini, 1622.

By vertue of the Kings Maiesties writt to mee directed,
 returnable Coram domino rege apud Westmon die Iovis
 proxim' post xv. sancti Hillarij &c. you shall arrest *I.S.* if hee
 may be found within my Bayliwicke, to answer to *C.D.* in
 a plea of Trespasse, &c. (or in a plea of Debt according to
 the writt.) Datū sub figillo officij mei, die & anno supradictis.

Per B. A. mil' vic'.

To *I.P.* and *R.S.* my speciall
 Bailifes in this behalfe, iointly
 and seuerally greeting.

The forme of a bond for appearance of the prisoner. See
 hic postea tit. Obligation.

K

The

Executions.

The nature of Executions, and of how many
sorts they are, and how they are to be
done and executed.

Executions.

Executions are of diuers sorts, and in diuers manners to
be executed and done, scz.

1	{	Statute Merchant	{	<i>de corps, terres, & biens.</i>
2		Statute Staple,		
3	{	Recognifance	{	<i>de Medietate terrarum, & tous les biens.</i>
4		<i>sur</i> Elegit		
5	{	Capias ad satisfaciendum,	{	<i>de medietate terrarum, & de tout les biens le dettor.</i>
6		Fieri facias,		
7		Leuari facias,		
				<i>de corps tantum.</i>
				<i>de biens tantum.</i>
				<i>de proficuis, terres, & de biens.</i>

Execution in our law signifieth the last performance of an
act, as of a judgement, statute, or the like: and these execu-
tions are of two sorts, one finall, another with a quousque
&c.

An Execution finall, is when the defendants lands are *Co. 3. 37.*
extended, or his goods sold, and deliuered to the plaintife,
who accepting this in satisfaction, ends the suit.

An Execution with a quousque, and not finall, is in the
case of a Capias ad satisfaciendum, where the bodie is taken
to the intent to satisfie the plaintife, but is no satisfaction,
but a pledge for the debt.

*Sur statnte
merchant.*

*Nota que le stat. Merchant, est bond ou obligac' de record, acknowledge
deuant le Maior de London, Yorke, Bristow, ou de aut' citie, ou deuant le
baillife dasc borough ou ville, ou deuant auters persons la, a ceo purpose ap-
point, & est seale ones q' les seales del dettor, & del roy; le forme de quel
veies in West 106.*

*Si stat. merchant ne soit seale per le party, ne vaut. 6.R. 2. Fitz.
Exec' 131.*

If a man be bound in a statute merchant (and do not pay
the debt at the day) execution shalbe done therof in this ma-
ner: first (the conusee may come to the Maioz or other offi-
cer

Statute de
Acton Burn
13.E.1.
& Stat.de
Mercator
13.E.1.
Fitz.130.131
P.Statutes 1.

er befoze whom the stat. was acknowledged and pray him to certifie the same into the Chancery vnder his seale &c. & if he wil not certifie it, then) a writ of Certiorari must be sued forth of the Chancery, directed to the said officer &c. (of the place where the stat. was acknowledged) to certifie the acknowledgement of the same stat. into the (pettie bag office in the) Chancery, and vpon that certificat (a writ of Execution, scz. a Capias shall go out to the sherife, against the body (onely of the conusor, si laicus sit) to take his bodie, and command the sherife to keepe him safely in prison, vntill he hath agreed for, or fully satisfied the debt: But the debtoz after he is taken, hath libertie giuen him (within a quarter of a peare) to sell his lands and goods to discharge his debts: and if he do not agree for his said debt within the next quarter, then all his lands and goods shall be deliuered (by the sherife) to the creditoz by a reasonable extent, to hold vntill the debt be fully paid, and yet neuer thelesse the bodie of the debtoz shall remaine in prison vntill the debt be paid.

*Certifie in
le Chancery.*

*1. Execution
serr' del corps*

*2. Del terres
& biens*

Fitz.130.g

And this writ may be returnable into the court of common pleas, or into the Kings bench.

But vpon the returne by the sherife (of that shire to whom the Capias was directed) *si laicus est & non est inventus in balliva sua*, then shall go out an Extent against all the conusors lands and goods, and against his bodie. Vide le Regist. 147.

*Non est in-
uentus*

And vpon such an Extent come to the sherifes hands, the sherife shall or may presently cause the moueable goods of the debtoz to be prized and sold as farre as the debt doth amount, and the debt without delay to be paid to the creditoz. See Stat. de Acton Burnell 13.E.1.

Fitz. Ext. 67

Note that if the sherife can find no buyer, hee shall cause the same goods to be deliuered to the creditoz at a reasonable price, as much as doth amount to the debt: And if the priors of the goods do set an ouer high price, to the damage of the creditoz then shall the things so praised be deliuered to the priors at the same price, and they shall bee forthwith answerable vnto the creditoz for his debt &c. but the sherife must sell the goods to them which offer most for them: And yet if the sherife shal sell them at an vnder price, it seemeth the debtoz hath no remedie. See the statute de Acton Burnell.

13.E.1.

If the debtoz haue no moueables whereupon the debt may be leuied, then shall his bodie be taken and kept in prison vntill he hath made an agreement &c.

If the Sherife doe not returne the Capias; Or doe re-
turne

Executions.

turne that the writ came too late, or that hee directed it to the bailife of some franchise, hee shall bee punished and shall yeeld damages to the partie grieved, according to the Statute of Westminster: 2. cap. 39. stat. de mercatoribus.

Clerke.

If the Sherife returne that the debtoz is a Clerke, then there shall goe out an extent against his lands and goods (onely) to bee deliuered by a reasonable extent as aforesaid: but his bodie shall not be taken.

See Fitz.
1. r. 2. 166.
a. b. Stat. de
Mercator.
Vide Fitz.
Execuc. 79.

Sureties.

If the debtoz found sureties (which acknowledged themselves to bee principall debtozs after the day passed) they shall be ordered in all things as the principall debtozs scz. for the arrest of their bodies, and deliuerie of lands and goods stat. de mercator.

But so long as the debt may be fully leuied of the goods of the debtoz, the sureties shall receiue no losse, Stat. de Acton Burnell.

Escape.

And if any of these debtozs (being in prison) shall happen to escape, the sherife or gaoler must answer the bodie of the debt; and therefore it behoueth the sherife and gaoler that the prisoners be safely kept, Stat. de Mercator.

Note that when any Statute Merchant is certified into the Chancerie, and thereupon a writ awarded to the sherife, and returned into the Common place, and the statute there once shewed, that howsoeuer the proces after the same shewing be discontinued, that at what time the partie sueth to haue the proces recontinued, and to haue execution of the same statute, that the Iustices of the Bench where the statute was once shewed, may vpon the same record make and award full execution of the Statute Merchant aforesaid, without hauing the sight thereof another time.

5. H. 4. ca. 12.

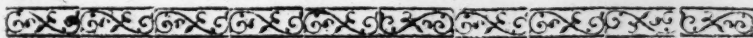
And yet see Dyer f. 180. Termino Pasch. anno 2. El. where the conusee of a Statute Merchant hauing the same certified into the Chauncerie vpon a Certiorari directed to the Maior, thereupon sued a Capias against the conusor returnable into the Bench, at which day the Sherife returned Non est inventus, and the conusee shewed there the Statute (as hee ought) and had another Capias, before the returne whereof the conusee died, and it was doubted whether his executors should haue a Scire facias against the conusor, or that they should beginne of new, scz. to sue a new speciall writ out of the Chauncerie to the Maior, to make Certificate (notwithstanding the first Certificate) and to haue out of the Chauncerie a new Capias or no, or whether (at the suite of the Executors) the

Dyer 180.

Statute Staple.

51

the Justices of the Bench might haue awarded an Alias Capias, or a writ of Extent vpon the first proceeding or not; But it was agreed by the Court that no Scire facias did lie in this case; but vpon oath made by the executors in the Chancerie, that the debt is not satisfied, they shall haue a new Certiorari to the Maior &c. to make a new Certificat of the Statute, and so to begin all againe of new, vide.



Statute Staple.

THE Statute Staple est de deux sorts, ou in deux maners :
 1 Lun per force del statute 27.E.3.ca.9. & ceo propriètie Statut Staple dicitur.

2 Lauter per force del statute. 23.H.8.cap.6.

27.E.3.ca.9 Le primer est obligation de record, acknowledge devant le Maior del Staple in le presence de un del Constables de mesme Staple, & est seale oue le seale del Staple, & seale del partie : mes tiel Statute Staple ne serra prise, sinon tantum inter merchants de mesme Staple, & pur merchandises de mesme Staple. Stat. 23.H.8.ca.6.

Vid Pl.62.b Lauter est obligation auxy de record, & de mesme le nature & force que le primer est, quant al execution de ceo : mes est acknowledge devant lun del chiefe Iustices, & in leur absence (hors del terme) devant le Maior del Staple al Westminster, & le Recorder de London, & est seale (ouesque trois scales, scz. ouesque le seales del conusor, del roy, & del un des dits Iustices, ou del Maior & Recorder. 23.H.8.ca.6.

Les formes de ceux Statutes Staple, veies in West 108.109.

27.El.ca.4. Nota que tous statutes (Merchant & Staple) serra port al Clerke de Recog. deins 4 mois, & inroll deins 6 mois, auterment tiel statute serra void vers purchasors &c.

27.E.3.ca.9
 15.R.2.ca.9
 Fitz.13r.d. A Statute Staple must be certified (into the Chaunce-
 rie) in the like manner as a Statute Merchant, and vpon that certificat a writ of Execution shall presently go forth, both against the bodie (si laicus sit) and against the lands and goods of the conusor, returnable in the Chancerie in the petite bagge office there, (and not into the court of Common Pleas, or Kings Bench, as the writ of Execution vpon a Statute Merchant shall) And vpon the writ of Execution, the sheriffe shall take the bodie of the conusor, and shall

Certificat in
 le Chancerie

Executions.

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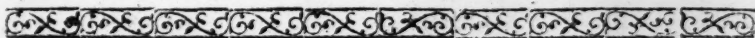
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*Certificat in
le Chancerie*

Statute Staple.

also (per sacramentum proborum & legalium hominum, & iux-
ra verum valorem, Fitz. 131.d.) presently extend, and prise,
and shall seise into the Kings hands, his lands, goods, and
chattels; and that extent and prisement or valuation of the
lands and goods shall returne and certifie into the Chaun-
cerie as aforesaid, and thereupon the recognisee shall haue
another writt called a Liberate to the Sherife out of the
Chauncerie to deliuer to the conusee those lands and goods
to the value of his debt &c. And vpon that Liberate deliue-
red to the Sherife, then such lands and goods as are taken in
execution shall be deliuered to the conusee by the Sherife and
not before, And this execution shall bee made in manner as
before is declared vpon a Statut Merchant, 27.E.3.ca.9.
Vide Plow. 62.b.

Liberate.

Regule.

Et sic nota, que sur Statute Merchant loblignor ou conusor serra im-
prison pro dimid' ann', Et sil ne vend ses terres deins mesme temps
pur payer ses debis, donque ses terres serra deliuer al obligee tanque
son det soit satisfie. Mes sur Statute Staple (le dettor ou conusor apres
que il est prise nauera libertie de vender ses terres, & biens, deins le
demy an, come il auera sur Statute Merchant; Mes per force de cest
Statute Staple) si le money ne soit pay al iour, maintenant apres certifi-
cate del ceo in le Chauncerie, le creditor poit auer execution del corps, ter-
res, & biens del dettor, scz. le conusor serra imprison, & tous ses terres
& biens serra extend instantier.

27.E.3.c.9.

Auxynota que sur Statute Staple le extent serra primes fait, &
retourne, & puis brieft de Liberate serra agard, mes deliuerie ne ser-
ra fait al commencement, tanque le chose appiert certainement per le re-
torne del vicont. Plo. 62.b.

*Dettor le
Roy.*

Touts obligations & specialties faits al Roy (ou a son vse, pur ascun
cause) serra de mesme force que Statute Staple est. 33.H.8.c.39.

Touts obligations prise de Ecclesiasticall persons pur leur first fruits,
serra de mesme le nature & force que Statute Staple est. 26.Hen.8.
cap.3.

Les terres de (plusors) accountants al Roy, serra liable, & mise in
execution, sicome ils vissent estre lie in Statute Staple. 13.El.cap.4. P.
Accountant 29.

Le heire que claime per done son annceffor, serra lie a payer le des le
Roy, per statute 33.H.8.cap.39. Plo. 440.
Co. 7.19.

Isint le heire in taile (per mesme le statute) serra liable de payer des
le Roy due per son annceffor. Ibidem. Vide Plow. 240.b. 249.b.
554.b. & Fitz. 217.c.

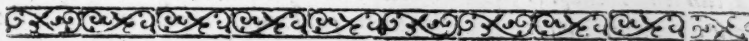
Mes si tenant in taile deuaigne in det al roy per recit des deniers del
roy, ou autrement, sinon que soit per iudgement, recognisance, obligation,
ou autre specialtie, & morust, la terre in le seisin del iussu in taile, per
force

Co. 7.11.

Execution sur Statute.

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force del dit act de 33.H.8. ne serra extend pur tiel des le Roy : car le statute de 33.H.8. extend' solement al dis 4. cases; & tous auters des le roy remaine al common ley.



Execution sur Statute.

Co.7.21.



I tenant in taile deueigne in det al Roy, per un des dis 4. voies (sc. per iudgement, recognisance, obligation, ou auter specialty) & morust, & deuant ascun proces ou extent, le issue in taile bona fide alien (ou lessa) le terre intailed, ora cest terre ne serr' extend per force del dit act de 33.H.8.

Co.7.22.

Isint, ou det fuit originalment due al subiect, & apres deueigne ou accrue al Roy per reason de attainer, vilawrie, forfeiture, done del partie, ou per ascun auter voy, ou meafne, tiel det nest deins le dit statute de 33.H.8. de charger terres intailed, in le possession del heire in taile.

Ibidem.

Mes terres in feesimple fueront extendable al common ley (pur det le Roy) in quecunque mains que eux deuendront; & pur ceo quant al eux le dit statute de 33.H.8. ne fuit forsque declarativum antiqui juris, Co.7.21.

Deux iointenants in fee, lun de eux esteant dettor le Roy morust, laui' tiender' discharge, Fitz.Execut' 113.

33.H.8. ca. 39.

Le heire serra chargeable de paier det le roy, coment que il ne soit nosme (ou que cest paroll heire ne soit comprise) deins le Recognisance, Obligation, ou specialty.

Roy serra preferre in son suit & execution, deuant common persons, per statute, 9.H.3.cap. 18. & 33.H.8.39.

Co.8.171.

Dettor le Roy possesse dun lease vend ceo bona fide, cest lier le roy car forsque chattell.

Co.11.93.

Nota que le Roy leuier le somme de que ascun est chargeable a luy, non solement vers le party mesme, sc. de son corps, & ses terres & biens in ses mains demesne, mes in les mains de son heires, assigns, exec' ou administras, & fil nad execut' ou admin' donques in les mains des possesseurs des biens del mort.

Queux

Execution sur Statute.

Queux terres, & biens serra extend ou prise (per le vicount) in execution, sur statute &c.
in case de common person.

Nota que sur statute merchant, ou staple, tous le fee simple terres, queux le consor auoit al temps del diis statutes acknowledge, ou al ascun temps enapres, serra liable al diis statutes, in quecunque mains que ils viender apres, per alienation, feoffement, ou auterment. Stat. de mercatoribus 13.E.1.27.E.3.cap.9.& 23.H.8.ca. Co.3.12.

Mes si le dettor morust, le corps de son heire ne serra prise; mes son fee simple terres que discend, a luy del consor serra prise (in forme auant) si soit de pleine age, ou quant il viender al plein age, quonsque le det soit leue, statute de mercatoribus.

Et issint fait le common ley deuant, sc. que in det vers le heire, le pl^r, aueront le terre que discend al heir, in execution; & une n'aura donques exec^r d'ascun part del terre vers le pere mesme.

Nota que ad este tenuis que le heire ne serra charge in des lou le executor ont assens vide Fitz. Execut^r 25.Br. Det 237.7.Edw.4.13.& Plo.193.a.b.

Co.3.12.
Plo.441.

Mes (a ceo iour) le ley semble auterment, sc. que est al election del creditor de suer le heire, ou le executor, quant ambed^r ont assens; vide 4.E.4.25.22.H.6.4.10.H.7.8.Doct. & St^r 153.Dyer 204. & Plow.439.440.

Auxy semble que si le heire ne confesse l'acion, & monstre le certainty del assens que il ad per discent, mes pleaciers per discent, ou est condemn^r per default &c. que la le plaintife auera execution de son auer terre, ou de ses biens, ou de son corps, per Capias ad satisfac^r Plo.440.

Nota que fee simple terres del heir^r queux il ad per discent, jour del br^c purchase, ou apres, serra liable: auterment si ad alien denant le brieve purchase, sinon soit per couin Co.5.60.

Possession in ley discend sur le heire, luy charger.

Issint lou il entre pur condition &c. Br. Assens.8.

Reuerfion surestate pur vie discend al heire, ceo luy charger &c. Br Assens 12.19.

Reuerfion serra mise in execution, & le Iudgement serra cum acciderit, & in le mesme temps del rent, Dyer 373.Fitz.Assens 237.

Notain det home auera execution de nul terre, mes de cel que le def. ad, le iour del Iudgement done ou rendus.2.H.4.Fitz.Execut^r 24.

Si home sua stat^r merchant de parcell de les terres, in nosme de tous les terres, il nauer auter execution in apres. Fitz.Excc^r 134.

Si ico nay fors que un acre per discent, ieo serra charge de 1000.li per obligation fait per mon pere, per Belk. 40.Ed.3.15.Fitz.Execution 32.vide & quare. Car semble que le heir poit conuistre ceo que a luy est discend, & demand Iudgement si de plus que de value del ceo il doit estre charge.

Terres

Execution sur Statute.

53

Plo. 157. b.

Terres intailed sont liable forsque durant le vie le conusor come si tenant in taile soit lye in stat. ou recognisance, le terre taile serra lye durant son vie, mes nest lie vers lissue in taile. Br. Recogn 7. Vncore si lissue in taile in seoffe estr. ore execution serra vers le seoffee, 19. Ed. 3 Fitz. Resceipt. 112.

Mes si tenant in taile conist statute, ou recognisance & apres alien. le terre in mains le seoffee ou alienee serra subiect al cest statute ou recognisance, Co. 1. 62. & 2. 52. 8. H. 7. 8.

Coppihold terres, ne sont liable, ne serra extend sur statute ou recognisance &c.

Lease ou terme pur vie, serra extend.

2. H. 4. f. Ex-
ecut' 21.

Lease ou terme pur ans, & tous auter biens & chattells del conusor ou dettor sont liable, & serra extend, sc. tiels queux le conusor &c. ad in son possession demesne, & a son vse demesne, al temps del execution sue, ou agarde. Mes sale de chattells, bona fide, apres Iudgement, & deuant execution agard est bon (sed nemy apres execution agard) come appiert in 2. H. 4. fo. 14. per cur. 11. H. 4. fol. 7. & 9. H. 6. 58. vncore per Babbington 7. H. 6. Br. Execution 116. Si home soit condemne in det, ou oblige in vn stat les biens queux il ad iour del Iudgement, ou conusance del recognisance serra lye al execution, in quecunque mains que ils viendera, quod non fuit negatum: & Co. 7. 39. a. Chescun execution, in Iudgement del ley, ad relation & retrospect al Iudgement.

Mes vn fraudelem conueyance, ou done de terre, ou biens, ne auoier aucun execution, vide les statutes 50. E. 3. c. 6. 1. R. 2. c. 9. 2. R. 2. stat. 2. ca. 3. 3. H. 7. cap. 4. 13. Eliz. ca. 5. & 7. & les liuers. 43. E. 3. fol. 3 Dyer 295, & Co. 3. 81. 82. 83.

Terres in auncient demesne son liable al statute vide F. Execution 118. & Retorne 109. contra.

13. H. 7. 22. a

Terres, ou biens, tenus iointment per le conusor ouesque estranger, & le conusor est condemn in damages & morust deuant execution, ceux terres ou biens veignans a le estranger per suruiuor, ne sont extendable, Br. Execut' 116. & 148.

Terres la feme sont extendable durant le couerture, per det le baron, 15. H. 7. fol. 14.

Rent poit estre deliuer in exec' Fitz. Auowrie, 237. Exec' 63.

Rent extinct per release del partie, poit estre extend; Co. 7. 38. 39.

Come si home ad Iudgement a recouer det, ou damages, per ceo le rent que il ad d'cun estate de franktenement est liable a ceo, & pur ceo comet que apres Iudgement ceo soit release &c. vncore ceo poit estre extend.

Mes home nauera unques vn chose extend sur vn execution sinon que il poit graunt & assigne mesme le chose, per Shelley 28. Hen. 8. fol. 7.

Et pur ceo vn auowrie, ne poit estre deliuer in execution; Doct. & St. fol. 53.

If sine

Execution sur Statute.

Issint les profits del office, ou auer chose que ne poit estre graunt ou assigne oustre, ne serra extend, Dyer fol. 7.

Biens demise, pawned sive pledged, ne poient estre prise in execution, pur son det que demise ou pawner eux durant le temps ou terme, que ils sont issint demise ou pawner, vide 22. Ed. 4. fol. 10. 34. Hen. 8. Br. Pledg. 28.

Come si home (bona fide) lessa son barbitis (ou oxen pur ans) &c. ou 4. Ed. 4. fil baile ses biens in pledge & apres serra condempne in personal actions, la tiel barbitis ou biens ne serra prise & mise in execution, tanque le lease soit determine, ou le money pay pur le pledge, Br. Distr. 75.

Issint semble de biens que sont distraine pur iust cause (come pur rent, amerciamment, damage fesant, & tiels) & sont impound, ils sont ore in custodia legis, & tã diu que ils sont issint, ils ne poit estre prise in execution, See Br. Pledges 28.

Det ou damages recouer vers un cominalty, nul execution serra fait mes tantum del biens queux ils ont in common, Fitz. Execution 128.

Si le conusor infesse le roy, ceo ter' est discharge del execut', Fitz. 266

Issint tous auters terres del roy sont exempts des distresses, & des executions, Plo. 242. b.

Si plusors homes soient seueralment seisie de terre, & ils tous ioyne in un recognisance (statute merchant, ou statute staple) in cest case le conussee ne poit extend la terre del ascun des conusors solement, mes tous les conusors doiens ouelment estre charge, & lun de eux solement ne portera tout le burden, pur ceo que sont tous in ouell degree: Et in executions queux concerne le realty et charge la terre, le vicount ne poit faire execution del terre lun solement. Co. 3. 13. a. 14.

Lou le conusor ad alien part de son terre, vncore le conusor mesme, al volunt del conussee, poit estre solement charge, pur ceo que il est mesme le person que fuit le deitor, & que fuit lye, & pur ceo il & ses terres poit estre solement charge. Co. 3. 14. Br. Suit 10. 12.

Issint le heire del conusor (ou de cestuy vers que iudgement est done in det) poit estre solement charge: vncore in ascun cases le heire del conusor auera contribution vers le feoffees son pere &c. see Br. Suit 12. mes Co. 3. 12. semble contr' sc. que le hr'e n'aua contribution vers ascun purchasor, coment que in rei veritate le purchasor vient al terre sans ascun valuable consideration &c. car coment in le case dun recognisance, statute ou iudgement, le heire est charge come terre tenant, & nemy come heire (& le reason del ceo est pur ceo que per le recognisance, ou statute le heire nest lye, mes le conusor concedit, quod dicta pecunia summa de terris &c. leuetur) vncore il n'auera contribution vers un purchasor. Co. 3. 12. Br. Suit 12.

Vide le liner 17. E2. Br. Suit 13. & Fitz. Execution 139. que eye longe que le heire ad assens execution serra vers le heire tantum, mes si le heire n'ad assens, execution serra sur tous les terre tenants, & chescun serra contributorie al auer: mes ou execution est sue vers le heire

heire que ad assens il nauera contribution vers le terre tenantis ne feoffees.

Mes quant le terre descend al diuers heires (ou files) lun heire seulement ne serra charge, mes tous les heires ensemble serra charge, autrement un heire auera contribution vers lautre heir, car ils sont in equali jure, Co. 3. 12. 13.

Br. Suit 10
12.

Et quant al purchasor de tiels terres, coment lour diis terres apres le iudgement, recognisance, ou statute, soit subiect al execution, vncore tiels purchasors ont greinder priuiledges done al eux (per le ley) que le comisor mesme, ou son heire, ont: Issint que si le terres de un purchasor soit seulement extend pur lentier des, tiel purchasor auera contribution vers tous autres de les purchasors, & vers le comisor, vel son heire, mes nota que per cest parol, contribution, nest destre intend que les autres doner ou allow a luy ascun chose per voy de contribution, mes doit estre intend, que le purchasor (ou party) que ad son terres seulement extend pur tous, poit per Audita quærela, ou Scire facias (come le case require) de-feater le execution, & per ceo serra restore a tous les meane profits, & chaser le comisee de suer execution de tout le terre, issint que in cest man-ner chescun serra contributorie, ceo est, le terre de chescun terre tenant serra ouelment extend, Co. 3. 14.

Mes si le comisor infeoffe le comisee del parcel del terre, & un estran-ger, de autre parcel, & reserve parcell in ses maines, ore comisee nauera execution vers le stranger (ou ascun autre feoffee, car tout ferr' extincet vers les feoffees) mes vncore vers le comisor, le comisee auera execution del parcell que remaine in son maine.

Fitz. 246. b.

Si le comisor dun statute merchant, ou staple &c. soit prise, & mor-ruist, in exec', vncore le comisee auera execution de ses terres & biens, Co. 5. 86. 87. vide Fitz. 246. b.

Co. 5. 86

Si le comisor sur statute &c. soit prise in execution & escape, vncore ses biens & terres sur mesme statute poit estre extend; car le scape, & l'actiõ que le plaintife ad vers le viscount pur le scape, nest satisfactiõ del det.

11. H. 6.

Vide plus hic postea Execution sur Capias ad satisfaciendũ. Si le comisor &c. esteant in execution procura Corpus cum causa, de remouer son corps, & sua Scire facias, vers le comisee &c. a defeat un execution sur un stat. il primerment troua sureties al partie plaini de satisfaire luy son det ou duey, in case que le matters comprise in son Scire facias, ne soit trone & adiudge pur le comisor, stat. 11. Hen. 6. cap. 10.

3. Jac.

Amxy per le statute 3. Jac. ca. 8. nul execution serra stay, ou delay, per brieve de error ou Superfedeas, par reuer sing dascun iudgement in ascun actiõ de det sinon que le party, (que sua tiel brieve de error) o-uesq. 2. suffic sureties soit primerment lye al party pur que tiel iudgem't est done., de prosecute le diu brieve de error cum effectu; ac de payer
tous

Execution sur Statute.

sous les detts, damages, et costs &c. si le iudgement soit affirme, ac etiam costs & damages pur tiel delay.

Et pur ceo si home soit condemne in ascun court, & son corps mise in execution, & puis il procure un brieve de Corpus cum causa ou Certiorari, de stre direct al vicount de remoue son corps &c. icy le vicount sur le dit brieve, doit returne le verity sc. que son prisoner est condemne per iudgement done enuers luy &c. sur que le prisoner serr' maintenant remaund al prison, la a demurrer quousque il ad satisfie le plaintife.

1. H. 5. cap. 2
Fitz. 251. e.

Purchase
parcell.

Si statute soit acknowledge al deux & lun de eux purchase apres terres del conusor, donque semble que le dit statute ad perde son force vers ambideux, vide le Register, 147.

Fitz. Execu-
tion 21. &
88. acc'

Si execution soit sue del corps, & del terre, & puis le conusor in seoffe le conusee del terre, ou surrender parcell descend a luy, in tous ceux cas le corps serra discharge, car per discharge del part del chose in execution tout est discharge, Plow. 72. b.

Si home soit lye in 2. statutes, lun apres l'autre, & la darreime stat. est primerment extend & deliuer in executio, & puis le primer stat. est mise in * execution pur greinder temps, & pur greinder summe que le prim' fait, vncore quant le primer statute est satisfie, le second conusee auera le terre arere per force del primer extent, Co. 4. 66. vide Fitz. Execution 250.

* Nota le
primer co-
nusee poit
auer Scire
fac' & exe-
cution sur
ceo.

Quant le extent (sur statute) est satisfie & incurre per effluxion de temps, le conusor poit enter arere.

Co. 4. 67.

Mes quant le extent est satisfie per casual profit, le conusor couiet de auer Scire facias &c.

Ibid.

Desesans al statute, fait apres execution, est bone, & defeater cybien le statute, come le execution sur ceo.

Co. 6. 13.

Le statute de Mercatoribus, lye tous les terres le conusor al execut' & voet que serra deliuer al conusee sur reasonable extent, mes ne parle que serra deliuer al extender, si ils eux extend troppe haut; & vnc' serr' deliuer al extender, per le equity del statute de Acton Burnell fais devant, que parle que biens preises troppe haut serra deliuer al preisors &c. Plow. 82. b. & 127. a.

Biens ouster
preise.

Mes nota ou le statutes de Acton Burnell &c. est que si les preisors del biens le conusor preise eux troppe haut (in fauour del dettor, & al damage, del creditor) les choses istint preise serra deliuer al preisors per mesme price; & ils render le creditor son det, ceux statutes sont penall, & ne extender al ascun auter briefes de execution forsque sur le statute merchant, ou staple, & sur recognisance. Et pur ceo sur brieve de Elegit ou auter brieve de execution sur iudgement, si les extenders (ou preisors preise les terres, ou biens, troppe hault, le plaintife (sc. le creditor) nad remedie, Benl. 4. P. & M.

Nota

Execution sur Recognisance.

55

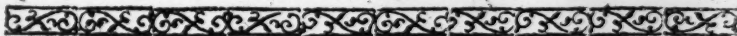
Nota quant les terres ou biens sont liuer al extendors, ils maintenant res-
ponder al creansor, de son des, per les parols del stat, & vncore ils ne
payer le argent tanque a les iours assise & limit in lextent, Plo. 205.b.

Si le dettor complainte que ses biens ou terres fuer vend, ou deliner al
conusee, al trope petit value, vncore il nad remedia, (statute de Acton
Burnell) car in tiel cases le dettor poet pay le money, et recouera ses
terres, ou biens, 15.H.7.15.

Nota si le extendors ont extend les terres ou biens a trope haut, un-
core si le vicount sur lextent liuer eux al creditor, et le creditor prist eux
selonque le extent; ou sil ne vient in cours mesme le terme que le vic-
fait son retorne, et pria que sont deliner al extendors; il nauera remedy
apres, Register 146.b.

Et pur ceo le partie bien refuse terre extend trope haut sur statute,
auterment serra conclude a preyer que lextendors les ayent. Fitzh.
Extent 11.

Auxy le partie bien refuse quia le vicount ne voil luy liuer forsque
parcel del terre le conusor, car sil accept ceo, il serra conclude a demand
tout apres. Fitz. Execution, 84. & 86.



Execution sur Recognisance.

Recognisance, est obligation de record, acknowledge in ascun court
de record, ou deuant ascun Iudge, ou auter officer, ayant authority
de prender ceo, come deuant les Iudges del banco regis, vel del
common Plees, les Barons del Eschequer, les Masters del chancerie, les
Iustices de peace &c. Et ceux que sont meere Recognisances ne sont seale
mes sont inroll; Et ascun foiss sont seale, ou le seale del partie: Et
poient estre one condition annex, ou poet estre singte, et donque de auer
Indentures de defeasans.

Recognisance
quid.

Auxy le Roy poit per son commission done authoritie al ascun home
de recevoir conuifance de auter home, et de returne ceo in le chancerie; Et
per vertue de tiel commission, si home conust deuant commissioner, ascun
det al auter, de estre pay a luy a certain iour &c. et ceo certifie in le chan-
cerie, ou le commission &c. ore sur ceo certificate fait del cest conuifance,
sil ne paya le det al iour, il auera elegit sur cest recognisance issint prise,
cybien come sil fuit prise in le Chancerie.

L

Nota

Execution sur Recognisance.

Nota que Recognis est al common ley.

Sur Recognisance, la ne issera Capias, mes un Scire facias, retour-
nable in le Chancerie; Et sur le retourne del ceo, ils vse de agarder un
Capias un Fieri facias, ou un Elegit, al election del comise, 48.E.
3.fol.14.

Sur Recognis. le comise ne poit auer action de des enuers le heire, car Co.3.15.
le recognis. est, quod tunc vult et concedit, quod dicta pecunia
summa, de bonis et cattallis, terris et tenementis &c. levetur;
issint que le charge est impose sur ses biens & terres, issint que des ne gist
sur ceo vers le heire, mes Scire fac. gist vers le heire.

Vncore sur recognis. acknowledge al vse le Roy (comment les parols del 7.H.4.fo.34
recognis. sont, de bonis et cattallis, terris et tenementis &c. levet)
le Roy auera liable a son Execution, cybien le corps, come les terres et biens
de son dettor, See Co.3.12.b. & 11.93.a.

Execution per force del recognis. (in case de common person) serra
de tous les biens & chattels le comisor, (except ses auers del carue, &
implements de husbandrie) et del moitie de ses terres, West.103.

Nota que cest parol recognisance, extend souent fois in nostre lius,
al statutes merchants, et statutes staple.

Execution per Elegit.

Elegit.



A Elegit is a writ judicial, and lyeth for him
that hath recovered det or dammages in the R.
Court, and must be sued within the yeare, *Termes*
del ley.

By force of an Elegit, the Sherife may take 13.E.1.c.18.
in execution, and deliuer vnto the partie (sc. vnto the credi-
tor) the one halfe of the lands of the comisor, and all his
goods, and chattels (preter boves et affros de caruca sua) sa-
uing onely his oxen, and beasts of his plough vntill the det
be leuiet, vpon a reasonable price or exten: And this is by
force of the statute of West.2. cap.18. which is the first stat.
which did subiect land to bee taken in execution vpon a
judgement, or vpon a recognisance, which is in the nature
of a judgement.

This statute of West. 2. cap. 18. (which giueth this Ele- Co.4.65.a.
git,) prouideth, quod vicecomes liberet ei omnia cartalla &c. & 74.
Et medietatē terrarū suarū, quousque debitū fuerit leuarī, per ra-
tionabile

tionabile prærium, et extantum : which last words, prærium, is to be referred to chattells, and extantum, to be referred unto lands ; Et rationabile prærium et extantum, ought to be found by Inquisition and verdict, scz. the appraising of the goods, & the extent (or valuation) of the lands, ought to be per sacramentum duodecim proborum et legalium hominum &c. For the Sherife himselfe cannot appraise the goods, nor value & extend the lands upon an Elegit : Neither can the Sherife upon an Elegit, deliuer any goods in execution, or extend any lands, but only such as are appraised and valued by the Jurors of the inquisition, Co. 4. 74. Otherwise it seemeth of all other sorts of executions, see Co. 4. 74. a. et 67. et hic postea fol

Executio per Elegit consistit in appraisement per inquisitionem.

Dyer 100.

Co. 7. 39.

The words of this statute of Westm. 2. cap. 18. are thus Libent' ei medietatem terrarum, debitoris, quel per construction del ley, est (medietatē) de tous que il ad al temps del Iudgement done, ou al ascun temps apres.

Br. Parliament. 101. Plo. 178.

Auxy le statute de Westm. 2. cap. 18. est qd vicecomes liberet medietatem terrarum, &c. & per lequis del ceo, le vic' puis auxy deliuer (al creditor, ou conussee) le moitie des rentes.

Co. 4. 82.

Auxy ceux parols (in le dit statute de Westm. 2.) quousque debitum fuerit levatum, serra intend, be or might be leuied : Car si le conussee, ou tenant per Elegit (ou tenant per statute Merchant, ou staple) neglece a prender les profits, vncore quant le conussee puit auer estre satisfie de son det selonque le extant, le conusfor reuera son terre ; mes see ne puit enter in tiel case, mes est mise a son Scire facias &c.

Ibid.

Si tenant per Elegit &c. soit ouste per un est' la le temps incurgera, et il est mise a son remedy vers le trespassor. On le conussee &c. tiender ouster.

Si tenant per Elegit &c. soit interrupt de prender les profits del terre per reason del guerre (sc. que le terre ou profits soit distroy per guerre) vncore il ne tiendera ouster, mes ceo serra in son disaduantage, Fitz. Execution, 146. & Co. 4. 82.

Co. 4. 82. 15. H. 7. 15.

Mes si les profits de la terre sont degaste per surrounder del ewe, ou per wildefier, ou per ascun autre act de dieu, sans defaute ou negligence del conussee, la le conussee (ou tenant per Elegit &c.) tiender le terre ouster, sc. quousque soit satisfie de son det, vide Br. statute Merchant. 41.

Co. 4. 66. 15. H. 7.

Si le conussee soit ouste per tort, per le conusfor, ou per ascun autre cloyment south luy (par vie, ou ans &c.) le conussee tiender ouster Co. 4. 66.

Issint si le conussee soit ouste per garden in chivalrie. 15. Hen. 7. 14. 15. Ed. 4. 5.

Si le feme le conusfor reconer d'auer le conussee tiender ouster ibid'.

Si cesty in reuerfion que est d'auer le terre, ousta le conussee &c. il ad election, ou de tener ouster, ou a porter sans action, Co. 4. 82.

Si les terres deliuer in execution sont loyalmens reconer prise, ou enueit del

Execution per Elegit.

del possession del conusee &c. deuant son det soit satisfie, il auera Scire facias &c. et sur ceo nouel brieve de execution statute 32. H.8. cap. 5. & Co. 5.87.

In trespas le plaintiffe recouer, et le dof. est prise par fine le Roy, si le plaintiffe prie que le def. remainer in prison tanque il soit satisfie, (come il poet) icy le plaintiffe nauera Elegit, pur ceo que il ad prise execution de son corps, & arroit : Mes si le party demy in prison, issint que il nad execution, oue satisfaction, la il auera Elegit apres pur ceo que nanois satisfaction solongue son primer election ; tamen quare, de ceo darreine case.

Costs et damages.

Mes apres satisfaction eue, le conusor in case de Elegit poet enter arere car le conusee nauera damages, costs, ne auter chose, mes solement le terre tanque le det soit satisfie, & pur ceo que tout est certaine, le conusor apres lexiens expire poet enter.

Nota tamen que sur execution sur statute merchants, ou statute staple, le conusee auera ses damages & costs (ouster son det come pates per le stat. de Acton burnell, & de Mercatoribus 13. E.1. & per le statute de 27. E.3. cap.9. & pur ceo in tiels cases, semble le conusor ne poet enter, apres lexiens expire, mes doit auer Scire facias &c. vide 15. H.7. 15.

Nota que le conusor auera Scire fac deins le terme del extient in ascū cases, & issint reauera son terre ; Come.

Si le conusor voile giser les deniers in court, deins le terme.

On si le conusee soit satisfie deins le terme, per casual profit.

15. H.7. 17.

On si le conusor obtaine acquittance, ou release del conusee.

Copihold.

Cest statute de Westm. 2. cap. 18. que done le Elegit ne extend al Copihold terres : Car serra preiudicial al seignior, et encounter le custome del mannor, que estr' auera interest in le terre tenus per copie, ou per le custome ceo ne poet estre transferre al ascun sans surrender &c. Co. 3.9.

Pons.

Terme pur ans ne poet estre extend per le vic' sur Elegit, sans trouer le commencement & certenty del terme, per inquisition : Car execution per Elegit couient estre per inquisition (vt supra) & fisoit troue per le inquisition que le dettor fuit possesse de certaine terre pro termino quorundam annorum ad tunc ventur' : cel inquisition est insufficiens car couient trouer le certentie, & le reason est pur ceo que apres le det satisfie le partie est de reauer son terme si ascun parti de ceo remaine ; quel certainty del terme couient appeare sur le retorne del vicount : come semble.

Co. 4.74

Mes sur Fieri facias le vicount poet vender le lease ou terme sans visiter asc' certainty sc. le vic' poet recit' que le dettor ad un terme de tiel chose pro termin' diuerso anno ad tunc ventur' : & que il vend ceo per force dun Fieri fac. al I.S. &c. & ceo est bon. Issint si le vic' vend sous interest que le dettor ad in le terre, ceo est bon, (mient ob. misrecitall) car per common intendmet le vic' ne poet auer precise conuance del certainty

Co. 4.73

Execution sur Capias ad satisfaciend.

57

certainty del commencement, & certainite del fine del terme: Mes sil im-
prise a reciter le terme & n'apprise ceo (reciting ceo fausement) & vend
mesme le terme, se sale est void, par ceo que n'est aucun tiel lease ou terme;
encore si n'est recitall nient obstant, si le vic vend auxy tous lemeist
que le dettor adan le dit terme, ceo sale est bone.

Auxy le vic ne besoigne de mention aucun certainty del terme in
son resorne de Fieri facias, mes generalment, quod Fieri fecit de
bonis & cattallis &c.

Nota que est al election del vic de extender, ou de vender, un lease ou
terme, sam diu que cest remaine in les mains del dettor &c. le vic (a son
election) poet vender ceo tout ousterment; ou il poet extend & deliuer ceo
al conusee a certaine annual value (come de franktenement); Et la le
conusee a que le terme est deliuer ad un propriete, le quel est incertaine, &
le lesee, (ou conusor) mesme ad auter propriete, issint que sur le payment
del det, ou sur le det receue del reuenue del ceo per le conusee, le conusor
reaue son terme. Pl. 5. 24. vide Co. 8. 171. & 31. Aff. p. 6. 38.
Aff. p. 4. & 44. E. 3. 16.

Nota icy d'icy futis inter le sale (per le vic) dun terme, Et un extent
dun terme: Es que sur sale dun terme per le vic le party nad remedy
d'auer son terme arere (si aucun remaine), apres le det satisfie, come,
semble.

Nota que cest paroll Extendere (ou Anglise, **Extend**) in nre ley,
signifie, de value le terres ou tenements de cestuy que est lye per statute,
ou recog. &c. (& ad forseis son recog) a tiel indifferent rate, que per le
annual rent, le creditor ou conusee poit in temps destre pay son det.

Extendere
quid.

Auxy ce paroll extent (Extentum) ad deux significac, asc' foits cest
signifie le bre ou commission al vic pur le valuing del terres ou tenemts;
et ascun foits laet del vic sur tiel briefe.

Execution sur Capias ad Satisfaciendum.



Capias ad satisfaciendum, is a writ of execution af-
ter judgement, lying where a man recouereth in an
action personall any det or damages, in the kings
court; there the recoueroz shall or may haue this writ to the
sheriffe, commanding him that he take the body of the party
against whom the det or damages is recouered, and him to
keepe in prison untill satisfaction be made to the pl. &c.

Capias ad
satisfac.

Mes nota si Capias ad satisfac soit agard, mes q le def. ne soit trone
le pl. ne poet auer auter execution 20. E. 2. Fitz. Execution 132.

Execution sur Capias ad satisfaciend.

And this Capias ad satisfaciendum, is onely against the body, which the Sherife must be sure to keepe safe, or else hee may perhaps pay the debt himselfe. And therefore if the Sherife shall take a man vpon a Capias ad satisfac^o to him directed, (or shall haue any prisoner to him committed for debt vpon any execution, &c.) and he after shall let the prisoner to goe at libertie before the debt bee satisfied, &c. The creditor may either haue his action of Debt against the Sherife, and shall so recouer his debt: or the creditor may haue his action of the Case against the Sherife.

11.H.7.23.a

Fitz.93.a.c.

*Escape per
Consent.*

And if the prisoner doe escape after that hee is once in execution, if the escape bee with the leaue and consent of the Sherife, or of his Undersherife, or Bayliffe, Gaoler, or other officer, deputie, or servant, then the Sherife hath small remedie, or none at all: See Plow.36.a.

Co.3.52.

Sans cōsent.

But if the prisoner doe escape of his owne wrong (against the will of the Officer) although hee escape and get out of sight, or into another Countie where the Sherife or Officer hath no authoritie, yet if fresh suit bee made, and hee bee taken againe vpon the fresh suit, hee shall bee said to bee still in execution: Coke 3.52.

Fresh suit.

Also if the prisoner doe escape against the will, and without the consent of the Sherife or Officer; then the Sherife or his Officer may take him againe, where, or whensoeuer he can find him (by vertue of the same writ before the returne thereof) yea although it bee in another Countie or Shire; And if that the prisoner which so escaped bee followed with fresh suit, and taken againe, before any action bee brought by the plaintiffe against the Sherife for the escape, it shall bee adiudged no escape.

Co.3.44.52
L.5.E.4.12.
Br. Faux
impr. 18.

And if the plaintiffe hath brought his action against the Sherife for the escape, before that the Sherife hath taken the prisoner againe: Or if vpon the escape, the Sherife or his Officers, did not make fresh suit after the prisoner, yet in both these cases (if the escape were against the will of the Officer) the Sherife may take such prisoner againe, and keepe his bodie in custodie, vntill the prisoner hath made his agreement with the Sherife: Or otherwise the Sherife may haue his action vpon the Case against such prisoner for such his wrongfull escape (if the prisoner that so escaped bee able to make him satisf-

Co.3.52.

Fitz.95.c.
et 130.b.

Satisfaction :) And the prisoner in these cases shall not be releued, because the escape was of his owne wrong, & without the consent of the sherife or officer.

Nota que si un soit in execution sur erroneous Iudgement, & puis escape, le vic' ne prender aduantage de ceo error, mes serra charge pur lescap: Mes si le erroneous Iudgement soit reuerse (per briese de error) aduque le vic' nest chargeable pur lescap, car la il poet plead nul tiel Record, Co. 8. 142.

Co. 5. 87. Si conusor dun statute merchant ou shaple, est prise et morust in execution, vncore le conusee auera exec' de ses biens et terres, Co. 5. 87.

Conusor sur statute est prise & escape, vncore ses biens & terres, sur mesme statute, poient estre extend.

Car coment que per ley, vnica tantū fiat executio &c. ceo est desre intend dun execution oue satisfaction.

Ibid. Et Nota que la est diuersite inter un execution que est valuable, come de terres, ou biens, & execution que nest valuable, come del corps.

Co. 5. 87. Auxy la est diuersite inter un execution finall, per que le party est satisfie (come lon le vic' leuy les deniers des biens del defendant, ou extend ses terres, & deliuer eux al plaintife, icy le plaintife accepting ceo in satisfaction, il ad le fine de son suit) & inter execution oue un quousq. &c. & que nest finall, come ou le corps est prise in execution sur Capias ad satisfaciend' &c. lintent de que est tantum que le defendant satisfier le plaintife. Et son imprisonment nest absolute, mes quousque le def. satisfie le plaintife.

Ou 2. homes sont condempnes in det, & lun est prise & morust in execution, vncore lautre poet loyaiment estre prise in exec' Co. 5. 86.

Iffins si deux sont oblige ioynment & seneralment in un obligation, Et lun est sue, condempne, & prise in execution, vncore lautre auxy poet estre sue & prise in execution, tanque le plaintife soit satisfie in fais de son entier det, Co. 5. 86.

Si home ad Iudgement in action de det, & puis le Iudgement vtlage le defendant, icy si le def. soit prise per Capias vtlagatum al suit le Roy, il serra in execution pur le plaint. sil voet, Co. 5. 88.

Auxy in tous cases quanti le plaintife poet auer Capias ad satisfac' & le def. est prise per Capias pro fine, la le defendant est in execution maintenant, si le plaintife voet, sans ascun preier del party. Co. ibid.

Fitz 121. P. Et in tiel cases si le vic' suffer tiel prisoner daler alarge, ceo semble destre escape, & que per ceo le vicount est subiect de payer le plaintifs dettie.

If the Sherife, or any of his officers, doe suffer any prisoner, being in execution, to goe at libertie before the det be satisfied, the creditoz may recouer his det against the sherife as *E/cap.*

Execution sur Capias ad satisfaciend'.

as is aforesaid.

So if the sherife, or his officer shall suffer any such prisoner to goe out of prison, by baile, mainprise, or baston (sc. with a keeper, or with the servant of the sherife, warden or gaoler &c.) before the det be satisfied, or without agreeing with the partie, at whose suit he is in execution, (except it be by the Kings writ) the sherife shall be answerable for the whole det. For by the Law those which are in execution, ought not to goe at libertie within the prison, much lesse abroad though with their keeper, or by baston; but such prisoner ought to bee kept in *salva & arcta custodia*; yea the sherife may keepe such as are in execution, in gybes and fetters, to the intent that they may the sooner pay and satisfie their creditors, see the statutes made, 13.E.1. cap. 11. & 1. R.2. cap. 12. Fitz. 93.c. et 121.a.

Co. 2.44. &
8100.
Plow. 360.2.

*Prisoner -
comi serra
demeris.*

And yet note a difference betweene the custodie of one in execution within the countie (or franchise) where the common gaole is, or where the office of the sherife, or bailife, extendeth, or reacheth & where the sherife, or bailife, hath the custodie of one in execution, out their countie (or franchise) by vertue of an Habeas corpus &c.

Co. 3.44.

For if the sherife (or bailife of franchise) shall agree that one who is in execution and vnder their custodie, shall goe out of the gaole, or at libertie, for a time, and then retozne, although the prisoner retozne at the time, yet this is an escape, and the Sherife (or Bailife of Franchise) shall pay the det.

But where the sherife &c. hath one in execution for det, & a Habeas corpus cometh to him to haue the bodie in the K. Bench (at Westminster) at a certaine day, and he carryeth his prisoner to London (to an Inne &c.) and the prisoner of his owne head goeth at large, and after cometh againe to the sherife, so as the sherife at the day of the retozne of the writ (of Habeas corpus) doth deliuer the body in court, this was adiudged to be no escape, for that the commandement of the writ is performed, scz to haue the bodie in the court at such a day: And in such case the sherife may goe and take what way, or place he shall thinke to be most sure and safe for himselfe and to carrie his prisoner.

Co. 3.44.

Yet sometimes the act or commandement of the K. court is no sufficient warrant to the sherife &c. to suffer a prisoner in execution to goe at libertie &c. for there is a case reported by master sericant Benlow, Anno 16.El. how that W. Manser brought an action of det against B. Añstey warden of the

16.E.10.
1343.

7

the fleet, upon the escape of a prisoner there in execution for 154. l. and the defendant pleaded that H. Draycot who was in execution, was before bailife to the Queene (of her lands late parcell of the monastery of Evesbury in the Countie of Staff.) and was found in arrearages, for which hee was committed to the fleete by the Barons of the Exchequer, and after by their commandement, he suffered the said Draycot by baston (under the custody of one of his servants) to goe into the countie of Derby, to gather by his detts &c. to pay the Queene; and pleaded all in certaine, and upon this plee, the plaintife demurred in Law, and after argument, judgement was given for the plaintife. Quod nota. see the like case Dyer 297. And there it was adiudged, *que si vn soit in execution, nul commandement quauis del Roigne mesme, sans briefe, est sufficient garrant de discharger le keeper &c. & per mesme raison ne discharger le vicount.*

Auxy vide 13. H. 4. 17. *Ou le vic par executer del commandement le Roy in torious acts, serra punish & ou nemy.*

Pea sometimes the Kings writ, is no sufficient warrant to the sherife, to deliuer a prisoner &c. see hic fol.

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But note that in as much as escapes are so penall to sherifes, bailifes of liberties, and gaolers the iudges of the law haue alwaies made a fauourable construction as much as the Law will permit in fauour of the sherifes, bailifes of liberties, and gaolers, who are officers and ministers of Justice, Co. 3. 44.

Co. 5. 81.

Nota si home recouer det ou damages vers auter, il poit essier de auer Capias, ou Elegit, mes sil prist le Capias, il paiera le Elegit apres, nec e conuerso 15. H. 7. 15.

Nota auxy que denant le statute de 25. Ed. 3. cap. 17. vn Capias ne gist in det, Ne le corps del defendant, denant cest statute fuit. subiect al execution pur det. (sinon in case le Roy.)

At the common Law, the bodie of a man, nor his lands, were not liable to an execution for det or damages, except onely in the Kings case, or in some other speciall case, Plow. 441.

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Co.3.52.

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Fresh suit.

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Execution sur Capias ad satisfaciend'.

58

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8100.
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*Prisoner
com ferra
de mersuo.*

And yet note a difference betweene the custodie of one in execution within the countie (or franchise) where the common gaole is, or where the office of the sherife, or bailife, extendeth, or reacheth & where the sherife, or bailife, hath the custody of one in execution, out their countie (or franchise) by vertue of an Habeas corpus &c.

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But where the sherife &c. hath one in execution for det, & a Habeas corpus cometh to him to haue the bodie in the K. Bench (at Westm) at a certaine day, and he carryeth his prisoner to London (to an Inne &c.) and the prisoner of his owne head goeth at large, and after cometh againe to the sherife, so as the sherife at the day of the retozne of the writ (of Habeas corpus) doth deliuer the body in court, this was adiudged to be no escape, for that the commandement of the writ is performed, scz to haue the bodie in the court at such a day: And in such case the sherife may goe and take what way, or place he shal thinke to be most sure and safe for himselfe and to carrie his prisoner.

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But note that in as much as escapes are so penall to sherifes, bailifes of liberties, and gaolers: the iudges of the law haue alwaies made a fauourable construction as much as the Law will permit in fauour of the sherifes, bailifes of liberties, and gaolers, who are officers and ministers of Justice, Co. 3. 44.

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Nota si home recouer det ou damages vers auter, il poit essier de auer Capias, ou Elegit, mes sil prist le Capias, il paiera le Elegit apres, nec e conuerso 15. H. 7. 15.

Nota auxy que denant le statute de 25. Ed. 3. cap. 17. un Capias ne gist in det, Ne le corps del defendant, denant cest statute fuit subiect al execution pur det, (finon in case le Roy.)

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441.

Neither was the bodie of a man subiect to imprisonment, by the common Law, except in some speciall cases,

The

Execution fur Capias ad satisfaciendum.

The body, was first subject to imprisonment for det by these statutes. *2. H. 3. cap. 73. } Accountants. 15. E. 1. ca. 11. } de Acton burnel? for det by de Mercatoribus } on a bat. 13. E. 1. } 25. E. 3. ca. 17. for det upon specialty of contract. i.e. by Capias (upon the original at.)*

The moiety by the stat. 13. E. 1. (westm. 2.) ca. 18. which statute giveth the Elegit, and is the first statute which subverts the Land. The whole Land by the statute of 13. E. 1. de Merc. 27. E. 3. cap. 9. 23. H. 8. cap. 6.

Levati fac.

At the common Law, where a common person sued a Recognizance, or a judgement, for det or damages, hee had execution in such case, onely of his goods & chattells, and cozne and other present profit which grew upon the Land: To which purpose the common Law came to by two severall *ways*; the one, a Levati facias, by which word the Sheriffe was commanded, *Quod de terris et catallis ipsius A. &c. &c. vel faciat pro dictam pecuniam &c. n. quodcum habear in &c. tali die praeato B. (querenti) deliverand. &c.* The other word called *Fieri facias*, which was onely, *de bonis et catallis.*

Scire facias.

So then this word, *de Levati facias* is given by the common law before the stat. of Westm. 2. c. 18. which giveth the word *Elegit*, and is also given. And this *Levati facias* is given to be executed upon the moiety of the lands, and upon the goods: Or the Sheriffe may hereupon take the rents payable by the tenants, in execution for the det, and bring them in court, but he cannot seise the land and deliver that to the party, by this word. *Pl. 441. a.* And this ought to be sued within the yeare, after the day of payment to be made by the Recognizance, or after the Judgement; for after the yeare, the cognizee (or plaintiff) is now by the statute of Westm. 2. cap. 45. to have a *Scire facias*, whereby the Sheriffe is commanded, that he give knowledge to the def. that he appeare in the Chancery at a certaine day, there to shew what he can say why he should not pay the det. or damages: And if he doe not come at the day, or doe come, and can say nothing why execution ought not to be done, then the Sheriffe shall be commanded to doe execution. See *Fitz. 266. c.*

And if the Sheriffe, upon the *Levati facias*, shall returne that he hath levied part of the summe (i.e. 20. s. part thereof &c.)

Execution per Fieri facias.

60

(*sc.*) the which he hath deliuered to the partie *sc.* now upon this returne, the partie which ought to haue the money, may haue a *Sicut alias leuari fac'* directed to the Sherife to leuy the residue of the summe *sc.* Fitz. 283. h.

Execution per Fieri fac.

A Fieri facias, is a writ judiciall, that lyeth for him which hath recovered any det or damages, & thereby the Sherife is commaunded to leuy the det or damages of his goods, against whom the recovery was had.

This writ of Fieri facias, is onely against the goods and chattels of a man, *sc.* Leases for yeares, or moueable goods as cattell, corne, household stufke, money, plate, apparrell, &c. And this writ also ought to be sued within the yeare after the judgement *sc.* Co. 3. 12.

But here the Sherife and his officers had need to bee very carefull, how and after what manner they doe execute this writ, for if the leases, or goods, which they shall take in execution be not the defendants owne goods, or leases, but the goods of a stranger, although they may or doe finde them in the possession of the defendant (which is the best colour in law to proue them to be his, if the defendant notwithstanding his sale or gift of them, shall still vse them and take the profit and benefit of them) yet if it shall fall out and be found vpon triall, that such goods and chattells bee not the defendants owne; then the Sherife or his officers which shall take such goods in execution (vpon such a writ) in steede of the defendants goods, the Sherife or officer shall be a trespasser to the right owner of such goods, and the Sherife or officer in such case shall pay damages to the owner of the goods to the value of the goods so taken, and costs of suit although the officer hath deliuered them to the plaintife in execution.

Or if the officer shall not deliuer such goods to the plaintife in execution, but that the Sherife shall returne his writ that he hath taken so much goods of the defendants, and that hee hath, *denarios illos parat. ad reddend'*, to the plaintife,

Execution per Fieri facias.

plaintife, then is the ſherife at a double miſchiefe, for although the value of the goods bee recovered againſt the ſherife or his officer, by the owner of the goods, yet the plaintife in the action, may within the yeare after execution done, haue a Scire facias vpon the iudgement, and the returne made by the ſherife, and thereby ſhall compell the ſherife to bring the money into the court, and after the yeare the pl. may haue an action of Det. againſt the ſherife for it, if he bee not otherwiſe or dzed by the court where the iudgement is depending.

And therefore the ſurer courſe for the ſherife in ſuch caſe is either to keepe the goods, vntill the parties be agreed, or elſe to take good ſecuritie of the plaintife, to defend him and ſaue him harmeleſſe, and to ſtay the returning of his writs vntill he may be well aduiſed what to do therein; But if he take a bond of the plaintife, it is questionable whether it be good or no in law, and not within the compaſſe of the ſtat. of 23. H. 6. cap. 10. to be taken colore officij.

But the ſafeſt and ſureſt courſe for the ſherife or officer is not to take in execution, or not to meddle at all, with any ſuch goods as ſhall not plainly appeare to them, to be the proper goods of the defendant: For it ſeemeth that the officer is bound at his perill, to take knowledge, whoſe the goods bee, or at leaſt, that they be the proper goods of the defendant.

For if an officer ſhall arreſt another man who is not the defendant, or ſhall attach goods which are not the proper goods of the defendant, in both theſe caſes the officer is a treſpaſſer; And if the plaintife ſhall ſhew vnto the officer the man, or goods, and ſhall ſay to the officer, that this is the defendant, or theſe are the goods of the def. where they are not, there both the plaintife, and the officers are treſpaſſors.

I. S. Riding vpon his maſters horſe to C. and there one enters a plaint againſt I. S. the ſeruant & attacheth the ſaid horſe, whereupon the maſter of the ſaid ſeruant brought an action of treſpaſſe againſt the bailife which attached the horſe, and had Iudgement to recouer againſt the Bailife &c. for that the officer is bound to take knowledge, whoſe goods he attacheth, Br. Treſpaſſe 99.

Vide plus deuant tit. execution per ſtatute ſtaple, & execution per Elegit.

Nota que apres le Fieri facias un home peut auer le Elegit, mes non eontra



Execution per Fieri facias. Proces.

61

Dyer 100.
Co. 4. 72.

contra, entant que le Elegit est de plus haut nature que le Fieri facias.

Sur Elegit, Execution, & appreisement couient estre fait per sacramentum 12. &c. & nemy per le vicont, mes auterment est de execution per Fieri facias.

Sur Fieri facias le vicont poit vender lease, ou terme pur ans. Vide antea Execution sur Elegit.

Sur Fieri facias le vicont doit vender pur lenier le det. Co. 5. 90. Vide Co. 8. 171.

Sur Fieri facias si le vicont vend les biens, & apres le iudgement est reuerse in briefe de Error, vncore le defendant nauera restitution de ses biens, mes le value del eux, pur que ils fuer vend: & ceux que isint achate tiei biens del vic poient loyalment enioyer eux. Car le vic que fist le sale auoit loyall authoritie a vender, & per le sale le vendee ad absolute proprietie in les biens &c. Es si le vendition del vic per force del Fieri facias serra auoid per subsequens reuersall del iudgement, donque nul voile acheter, & per consequence nul execution serra fait. Co. 5. 90. & 8. 96. & 143.

Sur Fieri facias, le vicont execute le briefe, mes ne retorne ceo &c. Vide hic postea fol.

Semble que appreisement de biens, ou extent & valuation del terres, ne besoigne estre per inquest (scz. per sacramentū duodecim proborū & legalū hominū &c.) si non tantū sur Elegit, & sur Statute Staple, & que sur auters executions, le vicont de soy mesme, poit extender & deliuer le terre, ou seisin inde, ou vender les biens & chattels (ceux esteant forsq. matters in fait) sans asc. inquest destr. prise. Co. 4. 67. 2. & 5. 32.

Fitz 181.
d.e.

Es vnc sur stat. staple lextent & appreisement esteant per sacramentum &c. & esteant retorne & certifie in le Chancerie, Liberate isserra al vic sur que le vic (de soy mesme) poit deliuer le terre, ou vender les biens.

Now followeth the manner and formes of such Precepts, Proces, or Writs which go out vpon the original, and whereby the defendant is called or brought into the court &c. and how the sherife &c. is to execute the same &c.

Summons.

Summons is a writ to the sherife &c. to cite or warne one to appeare at a certaine day &c. scz. in ius vocare, and the summons must be made by (or in the presence of two or three summoners, and these summoners ought by law to be liberi & legales homines, as it seemeth,

¶

¶

Proces.

In sumons in reall actions, the summoners in the presence of the pernozs or veiozs &c. ought to summon the tenant, first to keepe his day of the retozne (and to name that in certaintie) to answer &c. secondly they ought to name the name of the demandant, and lastly they ought to name the land in demand. Co. 6. 54.

Pernor.

Veior.

This word Pernor seemeth to signifie the pernoz of the profits of the land, or the occupper or fermer thereof. And the word Veior, to signifie such as are sent by the court to take view of the place in question, for the better decision of the right. Minsh.

Note that the defendant ought alwaies to be summoned fiftene daies (at the least) before the day of the returne of the writ. See Stat. 28. E. 1. ca. 15. Fitz. 177. d. Br. Summ 6. Et hic postea tit. Proclam'.

Per quel chose.

Note also that the Sherife &c. cannot summon the partie by a rent seruice, rent charge, common, reuerlion, nor the like, for that the soile is another mans freehold. Br. Retorn de breue 124. & Summ 14. 31. H. 6.

And yet in case where tenaunt for life prayeth in ayde of him in reuerlion, and a Scire facias goeth out to warne or summon him in reuerlion, and the Sherife returneth that he hath nothing in that countie but the reuerlio of that land in which hee hath summoned him, and it is holden to be a good returne, for he shall bee summoned in terra petita, and yet it was another mans freehold. 38. ass. pl. 12. so ass. pl. 8. & 45. E. 3. vide Br. Summ 12. 16. 21. 23. 24.

In a Cessavit, the tenant was summoned in other land which was not in demand, he shall not plead this, but if hee makes default and a grand cape is awarded, he may wage his law of non summons; but if the tenant appeare vpon the summons, it sufficeth in what land soever he were summoned. Br. Summ 7.

Nota quaxi le tenaunt appeare per le summons, il ne prender aduantage apres, adire que il ne fuit bien summon: Eadem Lex fil soit essoine, car tout ceo affirme le summons. 46. E. 3. Br. Summ 22.

Per person.

Note also if the Sherife shall summon him which hath no land, to or by his person, and shall returne him summoned, it is good: And in actions of annuitie, couenant, or the like, summons is the proces, hath the partie land or not; and where a man hath no land where he may be summoned, there the Sherife may summon him by his person. 33. H. 6. 4. H. 7. 7. Br. Summ 1. 7. 8.

In a Præcipe quod redd, the tenant vouched a Bishop to warrantie,

warrantie, part of whose tempozalties were in the Kings hands, he shal not be summoned in his tempozalties so long as they, or any part thereof remaine in the Kings hands, although there be assets in his hands wheron to be summoned. 38.E.3.Br.Summons 17.

In a writ of right of aduobison the sherife may summon the defendant in the church, Br. Retorn 101. 11.H.6. *In lesghise.*

Also in a Quare impedit, the sherife may summon the defendant in the church per Martin 11.H.6.Br. Retorn 101. Et isint per aduise fuit fait inter Lanceletum Episcopum Eliens. & Lanthor de cel Liuer, anno 16.Iacobi Regis.

In Attaint, the tenant was returned Nihil, and it was testified that he had land in another countie, whereupon summons went out thither Quod nota 21.E.3.Br.Sum 18. And note also that a man may be summoned in diuers counties, 21.E.3.Br.Sum 19. *In autre countie.*

In a Præcipe against foure, the sherife cannot summon the one, but that is a summons to all. 3.E.4.Br.Sum 10.

Plo.393.

Also in a Præcipe there ought to be two summoners, for if there be but one, and the tenant maketh default, & loofeth by default, he shal haue a writ of Desceit against the sherife &c.

Vide Thel.
332.

Nota que le tenant poit gager son ley de non summons (vt supra) & Ley gager. vncore Corporation, Recluse, & Decrepite, ne poient faire lour ley, mes lour summons serra triep per pais 33.H.6.fol.8. Thel.334.quare.

Attachment.

Attachment in our law signifieth a taking hold, or apprehending by comandement of writ, and differeth from an arrest, or Capias, which is onely of the bodie, whereas an attachment is sometimes of or by the bodie, and sometimes of goods, Minsh. See master Lam.fol.95. And the sherif and his officers are to be well aduised by what goods they doe attach a man, least they proue trespassors. For if the officers shall attach my horse in the possession of my seruant, for the debt of my seruant, the officer is a trespassor. 13.H.4.2. *Attachment.*

Attachment cannot be by land, nor by a chattell reall (as a lease for yeares &c.) 7.H.6.& 27.H.6.Br.Attach.1.4. *Per quous biens.*

Neither may a table dormant, or any other thing which is fastened vnto the freehold, bee attached. 21.Hen.7.fol.26.

But an Attachment ought to bee made by moueables, scz. by meere chattels (which may be forfeit by vtlarie, and)

Proces.

which shall be forfeited by the default of the partie, scz. if he appeare not, Br. 1. 4.

In Debt, Trespasse, or the like, a man ought not to attach the defendant by his horse whereupon he rides, where he hath other goods whereby he may be attached; but if he hath no other goods, then the officer may attach him by the horse he rideth upon, Br. 23.

Fitz 93. H. 1

Neither may a man be attached by his apparrell, 7. H. 6. Br. 4. But this seemeth to be understood of his apparrell which is upon his bodie; for if his apparrell lyeth by him &c. it seemeth he may be attached thereby.

Neither shall any goods be attached, but the proper goods of the partie, and not goods that are pawned, or borrowed &c. 35. H. 6. Br. 20.

Per pledges.

An attachment may be made by pledges, scz. by finding pledges or sureties to appeare, Br. Attachment 1. 7. & 9.

Also if the officer shall give warning to the tenant in the presence of other honest men, to appeare &c. it is good enough, although he made no other attachment by goods, or pledges &c. 34. Aff. Br. 9.

Per parol.

Note that the sherife commaunded his bailife to make an attachment, and the bailife commanded his seruant to do it, who did it, and it was holden to be good, and all this was by parol without any warrant by writing, 27. aff. p. 67. Br. Attach. 15. & 16.

But if an estranger without any commandement or warrant from the sherife or his officers &c. shall make an attachment, this is void, and besides the stranger is thereby a trespassor &c.

Forfeiter.

Where the Sherife or his officers &c. shall attach another by a cow (or by any other goods) if the partie shall not appeare (at the day of his retorne) his cow, or other goods attached, are forfeited to the king, and the sherife shall bee answerable for the value thereof; and therefore the sherife &c. had need either to keepe the goods attached, or else to take securitie to be saved hatmeles therein.

9 H. 7. 6.

34 H. 6. 29.

Nota que le property del biens attach, ne sont hors del party, tanque le iour del retorne, & que il fait default; mes si al iour del retorne le party fait default, dunque le vic' ou son officer poit prendre tiels biens come forfaits, comment que il ad lessa tiels biens, oue le partie que fait attach per eux: Es sic nota que sur attachment, lofficier poit (a son electio) prendre les biens attach, oue luy; ou poit lesser eux oue le owner, & apres prendre eux sur default del apparance per le owner. 9. H. 7. 6. Br. Attach. 10.

Nota auxy, que per effoine, lattachment (ou les biens) attach est sane,

non

non obstant que il ne appeare al iour deffoine, Br. Attach. 3. & 11. Mes 34. H. 6. 29. contra, Ou cesty que fuit retorne attach in trespas per 20 Oues, præcij &c. le defendant fuit effoine &c. & al iour il fait default, il forfeiter lattachment; mes per Ashton sil appiert al iour del attachment, ou al iour del effoine adiourne il sauera lattachment, aliter non.

Nul biens attach serra forfeit, mes in courts de record, & nemy sur Iusticies in le county, per ascuns opinions, tamen alij econtra. Vide Br. Attach. 2. & 19.

7. H. 6.

Br. Attach. 4.

A woman couert shalbe attached by the goodz of her husband, for the husband is to bring in his wife. vide hic fo.

27. aff. p. 67.

The defendant ought alwaies to be attached 15. daies (at the least) before the day of the retorne of the writ. Br. Attach. 1. 5. 6.

Vnc' triall de nient attach per 15. iours serra tantū per examination del officer que fait le rei, & sil soit absent lattachment serra inuend deste fait accordant al ley (scz. per 15. iours) & le def. serra agard de responder. Vide Br. Attach. 6. 12. 17. & 18.

Auxy nota que in Banke le Roy ils allow attachment in aff. de nouel diff. de 8. iours, & de meins. Br. Attach. 13.

Capias ad respondendum.

Si nihil soit retorne sur le summons, Capias isserra per le common ley. Capias. Fitz. Wast. 45.

Capias est de deux sorts.	{	deuant iudgement,	Capias ad respondendum.
		apres iudgement	Capias ad satisfaciendum.
		ceo est quadrup.	Capias pro fine.
			Capias vtlagatum.
			Capias ad valentiam.

Nota que est vn rule in ley, que in tous actions, Quare vi & armis, Capias (ad respond) gist, & ou Capias gist in proces, la apres iudgement Capias ad satisf. gist, & la le roy aua Capias pro fine. Co. 3. 12

Sur le Capias ad respond, si le vic' retorne Nihil habet in balliva sua &c. tunc isserr'.	{	Alias Capias.
		Pluries.
		Exigent.

Deuant le statute de 25. E. 3. ca. 17. vn Capias ne giser in det, ne le corps del def. ne fuit subiect al arrest pur det sur specialty, ou contract &c. Vide hic antea Execution sur Capias.

Co. 6. 53.

Le person (ou corps) del Baron, ou aut' Peere del realme, ne de Countesse ou Baronesse ne serra arrest in det, ou trn's, mes in cases de contempt ils poient estre arrest. Co. 6. 52. &c. Et vnc' si Capias, ou Exigent soit agard vers tiels (sur det ou trespas) lofficer pout bien iustifie de execute ceo.

Capias ad satisfaciendum, est breue de Execution apres iudgement, de que vide hic antea fol.

Proces.

Capias pro fine, est lou vn per Iudgement, est fine al roy &c. *sal* ne discharge tiel fine accordant a le Iudgement, son corps pur ceo est prise, & commit al prison, tanque il ad pay son fine al roy, ou done secunritie pur le paiement del ceo.

Capias vtlagatum, gist vers luy que est vilage sur ascun suit, donques sur cel brieve, il serra prise, & mise in prison, sans baile ou mainprise, pur ceo que il ad fait concept enconter le ley.

Capias ad valentiam, gist lou home est imple de de certaine terre, & vouch a garrantie vn auter, & il ne scauait pas harre le demandant, issint que le demandant reconuer, danque la vouchet reconuera tant in value vers le vouchet, & donque issera cel brieve.

There is also a *Capas* in Withernam de homine &c. See hic Retorne de breue de homine replegiand.

There is also a *Capias* in withernam, de Auerijs &c. See hic breue de withernam, & tit' Countie Court.

Venire facias.

Venire facias

This writ of Venire facias is of two sortz.

The one is to cause the partie to come in, and answer &c. upon this if the defendant be retourned sufficient, and maketh default, then a *Distringas* shall be awarded: But if a *Nihil habit* &c. be retourned at the first, then after the *Venire facias* there shall goe out, a *Capias*, alias, plures, & Exigent.

The other is after apparance, when the parties be at an issue, then the plaintife or defendant shall haue this writ, to cause the Sherife &c. to impannell and retorne a *Jurie* &c.

Distringas.

Distringas

This writ is directed to the Sherife &c. commanding him to distraine another for his apparance &c. or to distrain for the kings debt &c.

A *Distringas* for the appearance of the partie shall go out infinite, scz. untill the partie commeth in,

Scire facias.

Scire facias

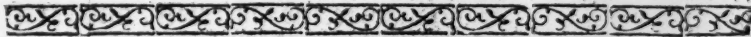
Scire facias est breue iudiciall. direct al viscont &c. Et est vsualmēt de garner home de vener & monstre cause al court &c. quare execution dūn Iudgement que est pas, ne serra fait: Mes cest brieve ne serra grant deuant que lan & iour soit passe apres le Iudgement done.

Termes del Ley.

Upon

Upon this writ of Scire facias, it seemes that the Sherife hath no more to do, but only to warne the partie to appeare &c. according to the writ, and then to returne the same: see hic postea fol. 95.

There be diuers other sorts and manners of Proces as well in actions reall, as personall, which you may see at large, in Fitz. natura breuium.



Returne of Writs.

NOte that in the execution of all writs and Proces of Law, the Sherife and his Officers must therein doe all that which they shall be commanded to doe by the writ it selfe, and they must pursue the effect thereof in euerie behalfe, and they may proceed no further, or otherwise in the execution thereof, than they are authorized by the writ: And besides the Sherife is to returne the same writ into the Court whence the writ came.

For the manner and forme of returnes of writs, first they must be made according to the ancient course, and according to the presidents, otherwise they are not good.

And therefore in a writ of right, the writ to the Sherife is to returne foure knights, to chuse the grand Assise returnable such a day, and the Sherife returneth that they were no knights but Burgesles, whereupon another writ went out, &c. and thereupon the foure knights were demanded, who came to the barre girt with their swords, &c. And so it seemeth by the opinion of master Brooke that the Sherife may returne them knights, although they bee no knights, for so bee the presidents, as you may see hic postea fol.

7. H. 4.
Br. Ret. 106.
vide Plo.
fol. 117. &
219. a.

The forme.

Knights.

Waste was assigned in S. the returne must not bee, quod accessit ad S. but quod accessit ad locum vastatum, 27. Hen. 8. Br. 2.

1. H. 6. 6.

Upon a scire facias, the Sherife returneth Ego. R. O. Ar' vic' &c. vobis certifico, it is not good, for it ought to bee vobis Iustic' certifico.

Vobis certifi-
co, for vobis
Iustic' cer-
tifico.

Venire fac' 12. &c. le vicount returne venire feci, & non executio istius breuis, & auxi il retorne forsque 12. & pur ambideux ceux causes il fuit chaise damender ceo. 2. H. 7. Br. 84.

The

Returne of Writs.

Virtute precepti, virtute brevis. The Sherife returneth, quod virtute præcepti, &c. coepit corpus de I.S. and exception was taken thereto, for that the returne was not virtute brevis, &c. and yet it was holden to be a good returne, for the Sherife may take one in Westminster Hall, by the commandement of the Justices without any writ. 16.H.7.

Upon an Habeas corpus, the Sherife must returne attachiar' and not quod habet corpus. 2. H.7. Br. 84.

Probos & legales homines. In the returne of garnishment by A. B. and C. D. these words probos & legales homines seeme materiall, and yet if the Sherife returneth scire feci per A. B. & C. D. without the words probos & legales homines, it is sufficient, especially if the defendand appeares, and it may be amended: 33. H.6.35. 8.H.6.27.& 44.E.3.36.

Prout constare poterit. The Sherife ought not to returne quod defend' nihil habet, prout sibi aliquo modo constare poterit; vel non est inventus prout ei constare poterit, to returne directly, quod nihil habet, vel non est inventus, otherwise he shall be amerced. 9.H.8.57.

Tarde. The Sherife returneth, quod breue adeo tarde sibi venit, quod illud exequi non potuit propter breuitatem temporis, and it was holden a good returne: vide 21. Hen. 6. 51. Br. 52.

But if the Sherife shall make such a returne, where hee hath sufficient time to serue the writ, he shall be amerced, &c. or rather hee shall yeeld damages to the partie grieved, according to the stat. of 13. E.1.39.

Non inveni, for non est inventus. The Sherife returned non inveni partem, &c. for non est inventus; and the partie being thereupon outlawed, assigned this for errour, and it was adiudged to be errour, and not to be amended. 9.H.6.fol.13 Br.43.

Mandavit for mandavi. The Sherife returneth quod mandavit balliuo de E. &c. for mandavi balliuo, &c. and was therefore amerced.

Nomina Manu capt. & Summonsit &c. Upon a distringas Jurator', the Sherife ought to returne the names of the Manu captors of the Jurors: Br. Returne 86.

In a scire facias to execute a Judgement or Fine, the Sherife ought to returne the names of the Summoners and Ueters: 3.H.7.8.Br.Ret.86.

So vpon the Grand Cape, the Sherife ought to returne the names of the Summoners and Ueters: Ibid.

Issues. Also vpon the returne of a Iurie, the Sherife is to returne issues vpon euerie person impannelled and returned by him, Ibid.

And

3. H. 7. fol. 8.
Br. Ret. 86.

And yet in these former cases, if the parties, &c. shall appeare and plead, (it seemeth) though the Sherife, &c. shall omit to retorne the names of such Manucaptors, Summoners, Uicors, or shall retorne no issues, the retorne shall be amended and shall bee no errout: But yet Master Brooke holdeth it to bee errout if the retorne bee not good, notwithstanding any appearance: Ideo quare, vide 8. Hen. 5. fol. 2. b.

The Sherife in a replevin returneth that the cattell are in a Fort, Castle, or Parke, so that he could not make Deliu-^{Que ne peut faire deliuerance.}uerance, &c. it is not good, but there hee shall bee amerced for such his retorne, for that he might haue taken Posses committatus, and so made Deliuuerance.

If the Sherife shall retorne a resistance, it is not good, ^{Resistance.} for hee should haue taken the power of the Countie, &c. but hee shall bee amerced for such his retorne, for that it tendeth to the dishonour of the King and his Crowne, 13. E. 1. c. 39. see hic.

The Sherife returneth a Rescous, it seemeth not to bee good: vide Br. Ret. 66. 39. H. 5. And yet see the booke 10. E. 4. fol. 17. & 3. H. 3. Hen. 7. fol. 11. the Sherife returned a Rescous; and in the one booke, for that the place where the rescous was made, and in the other for that the place where the Rescous was commanded to be made were not certainly set downe, therefore the returnes were holden to be insufficient, and the Sherife amerced therefore; whereas otherwise the Sherifes retorne of the Rescous had bene allowed: Ideo quare & vide hic retorne de capias.

Upon a capias the Sherife returned, that the partie committed felony, and tooke sanctuarie, which priuiledge hee could not breake, this was a good retorne: see Br. Returne 29. & 46.

Upon a capias the Sherife returneth, that befoze the ^{Arrest de-}comming of the writ, the defendant was taken and detai-^{nant.}ned in prison, by force of a Warrant from a Justice of peace in the countrie, for the finding of Sureties for the peace, &c. yet the Sherife ought (as it seemeth) to bring in the partie into the Court, and then after that the plaintife hath counted, and the defendant hath put in his answer, hee shall goe vnder mainprise, and bee remitted to the Sherife for to answer

Br. Respon.
33. see 9. H.
6. 44.

Returue of Writs.

answere in the countrey before the Iustices of Peace, &c. 2.
H. 7. fol. 2.

Inhibition.

The Bishop being commanded to certifie Patrimonie, &c. certifieth that he could doe nothing, by reason of an Inhibition to him directed out of the Arches, and it was holden no returue, for hee ought to performe the Kings commandement notwithstanding the Inhibition: 36. Ed. 3. Br. Returne 112.

Clerke.

In a Scire facias against a Clerke (vpon a recouerie in a Quare Impedit) the Sherife returned, quod Clericus est beneficiatus, &c. and therefore (by some opinions) the Sherife was to be amerced, for heere the Sherife should haue summoned him, &c. And yet it is a good returue, quod est Clericus beneficiatus, &c. Et quod non est inventus, for then hee cannot bee summoned if hee bee not found, nor hath Lay fee.

32. H. 6. 11.
Br. 124.

Note that the Sherife is not to returue quod Clericus est beneficiatus, but onely in causes where a Capias or a Distringas goeth out, which are a Cohertion.

Ibid.

Where the Sherife (vpon a Scire facias) returneth, quod Clericus est beneficiatus, Non habens laicum fœdum, there shall goe a writ to the Bishop to sequester his benefice: see hic antea fol.

K. 47. 11. H.
4. fol. vlt.
2. E. 4. 1.

Baron & feme.

In an Assise against the husband and wife, the Sherife returneth the husband attached, and the wife nihil, quære if that be a good returue, for by the better opinion of the booke 7. H. 6. the Sherife should haue attached her by the goods of her husband: and yet by the booke 48. Ed. 3. 25. & 49. E. 3. 1. Fitz. Ret. 73. if seemeth that the wife shall not bee attached by her husbands goods; but the Sherife shall returue pledges vpon the one and the other: Ideo quære.

In a Scire facias against the husband and wife the Sherife returneth that they are diuorced, and was therefore amerced; for persons that are diuorced may haue garnishment, quære & vide 1. H. 6. 2. Br. Ret. 63.

2. H. 6. 5.
Br. 4.

Executors.

Vpon a Fieri facias against executors, the Sherife returneth that they had sold the goods of the partie dead before the writ purchased &c. And the Sherife was amerced for this returue, for he should haue taken other goods of the executors to the value thereof, &c.

14. H. 4. 12.
Br. 41.

Also it had been no returue that all the executors but one had nothing, for the Sherife ought to make execution of that which was in the hands of that one executor.

The Sherife vpon a Fieri facias against executors returneth, Quod nihil habent post adventum brevis, provt sibi aliquo modo

9. H. 6. 57.

modo constare poterit, and for this he was amerced, for hee ought to haue returned directly, quod nihil habet: but the Sherife may returne, quod bona elongata sunt, and thereupon execution shall be of their proper goods.

Sur fieri facias vers executers, le vicount returne, nulla bona, &c. le plaintife poet auera special brieve de fieri facias, scz. que le vicount leuier le deū des biens le mort, & si sibi constare poterit que les executers ont degast les biens, dongue de bonis proprijs. Co. 5. 32. 11. H. 4. fol. 70. Fitz. Exec. 57. 2. H. 4. fol. 4.

Also the omission of words vsuall maketh the returne not to be good, as where the returne was Residium huius brevis patet in quadam schedula, &c. for Residium executionis istius brevis patet, &c. this is vitious, 19. H. 6. Fitz. Returne 14.

So in a Scire facias the Sherife returned Scire feci A. quod sit coram vobis, &c. and did not say further, ad faciend' quod breue requirit, and it was adiudged to be no good returne: 16. E. 3. & 26. E. 3. Fitz. Returne 77. 119.

Isint assise fuit Returne sic Plegij. E. V. infranominat' A. B. & C. D. Ou le returne serra, E. V. infranominat' attachiat' est per Plegies A. B. & C. D. Et pur default de cco parol attach, le returne tenus void: 5. E. 4. Br. 93.

Againe euerie returne ought to answere the point of the writ (as it seemeth) and therefore where the writ (to the Sherife) was, quod Scire facias, hæred' terrarum & tenementorum que fuere M. &c. and the Sherife returned, quod Scire fecit W. H. militi, fil. & hered. predict' M. &c. And it was assigned for Error, for that hee did not returne him heire of some lands or tenements, according as the writ required; for his warrant was not to summon the heire of M. but the heire of the lands and tenements of the said M. see Co. 3. 15.

3. H. 7. 11. a.
12. a. Br. ret.
38. see Co.
8. 127. 128.

Also the returne of the Sherife ought to bee certaine to euerie intent, as a declaration ought to be, and the Sherife is bound to take knowledge of the Law in making his returne: and therefore in a Scire facias Laurentio Both magistro Aule de B. in Cantabr. & scholaribus eiusdem, &c. the Sherife returned quod Scire fecit Magistro, &c. And did not say Scire feci Laurentio Both Magistro, neither spake of the schollers; and therefore it was holden to be a void returne.

Certaine.

34 H. 6. 49.
Br. Ret. 14.

29. E. 3. 33.

Yet in a Scire facias against Elen. Prioreff. de W. the Sherife returned Scire feci Prioreff. de W. without saying Elen' Prioreff. and it was holden good.

The

Returne of Writs.

The Sherife vpon a capias returneth that hee arrested the defendant at D. and would haue carried him to the Gaole, and that W. N. did rescue him, and it was holden no good returne, for that hee did not shew at what place W. N. made the rescue, and it shall not be intended to bee where the arrest was. 10. Ed. 4. 35.
Br. Ret. 97.

In a Premunire the Statute is that the defendants shall bee warned by the space of two moneths before the day of the returne, and for that the Sherife returned the warning generally, and did not say what day, nor that it was two moneths before the returne, therefore the returne was holden to bee insufficient; yet the contrarie was holden: 39. Ed. 3. 7. Br. 56. And that it shall bee intended that it is well serued according to the Law; for other writs ought to bee serued by the space of fifteen dayes before the returne, and yet no mention thereof is made in the returne: And if the Sherife doe not warne the partie, nor serue the writ as hee ought, the partie if hee bee dammified may haue a writ of Deceit against the Sherife. 43. E. 3. 73.
Br. 103.

And so in a Pluries for a Corodie, the Sherife returneth that the Bishop of H. is founder, and returneth not the name of that Bishop which founded it, and therefore it was holden to be incertaine, quia oportet nominare primum Episcopum fundatorem, sc. Herbertum, &c. 8. H. 7. 65.
Br. 116.

If a writ bee returned thus, responsio vicecomitis C. and sheweth not the Sherifes name, it is no good returne by the opinion of Iennie, 3. E. 4. 9. E. 4. 19.
Br. 54.

If the Sherife returneth, mandauit balliuo libertat' R. and sheweth not whose libertie it is, or who is Lord of the franchise, this is no good returne by Pigor, but Danbie held the contrarie: 9. Edw. 4. 19. see 1. Hen. 6. fol. 6. Br. 64. Ibid.

If the Sherife returneth mandauit balliuo libertat' de D. and saith not balliuo I. N. libertatis suæ de S. this was good by the opinions of three Iustices, but Hales Iustice held the contrarie: 1. H. 6. fol. 6.

In a Scire facias, the Sherife returneth Scire feci, E. K. modo & forma prout istud breue in se exigit & requirit, and saith not infranominat' E. K. and yet this was holden (by the Court) to bee good: for note that these words, prout breue exigit, &c. doth amount to infra nominatus, or infra scriptus: see the booke 2. H. 4. 13. & 3. H. 4. 9. Br. 28. Fitz. 44. the like return vpon a Scire feci against two or three seuerall tenants, 1. H. 6. 6.
Br. 64.
11. H. 7. 231

tenants, the Sherife returned Scire feci, &c. modo & forma prout breue exigit, &c. and it was holden to be good, without laying or returning seperatim scire feci, &c.

If the Sherife returne vpon a Capias against I. & N. quod cepit corpus I. & N. and saith not infra nominat I. & N. this is mispziſſion and muſt be amended, and yet by the Reporter it is well enough without amendment.

An Utlarie was returned in this manner, Ad com. tentum apud I. in com. Somerset, I. M. exactus fuit & non comparuit, &c. and it was holden (by three Iuſtices) a good returne, although it were not Ad com. Somerset, tentum apud I. in com. Somerset, but Iay Iuſtice held the contrarie, for that it could not be intended of what Countie the Countie which was holden was but alij e contra: 11. H. 7. 10. Br. 127. Ideo quare.

Note that in the former Caſe, this word Somerset, was not entred in the Warrant, or vpon the head of the returne, which is and hath bene the auncient vſage, and ſeemeth alſo to bee verie materiall: See 11. Hen.

7. 10. 2. b. Also ſee Co. 10. 141, a returne of an Exigent holden void for the incertaintie.

An Utlarie returned in London, in theſe words, Ad Huſting. tentum in Guildhall, Ciuitatis Londini, tali die A. B. exactus fuit & non comparuit: this is no good returne, for that there are two Huſtings in London; one is de communibus placitis, the other is de placitis terra, and therefore in ſuch caſe the returne muſt bee Apud Huſtingum de communibus placitis, &c. or otherwiſe it is not good for that the ſame may haue two intendments.

11. H. 7.
10. b.

The Citie of Norwich is within the Countie of Norfolke; alſo it is a Countie in it ſelfe, which may hold plea; and therefore if a returne bee made in theſe words, ad com. tentum apud Norwicum in com. Norff. this is not good, for that it may haue two intendments: ſcz. that the Countie which was held there was for the Citie, or for the Countie of Norfolke: But if the returne bee in theſe words, ad com. tentum Norff. tentum apud Norwicum in com. mitatu Norff. this is good, for now it cannot bee intended, but onely that this Countie was held for the Countie of Norfolke.

2. Intendments.

Co. 494.

In a writ of Errour to reuerſe an Utlarie in the Countie of Lancaſter, and the errour was for that the Sherife returned, quod ad com. Lancaſtriae, tent. ibid. &c. where it ſhould

Returne of Writs.

The Sherife vpon a capias returneth that hee arrested the defendant at D. and would haue carried him to the Gaole, and that W. N. did rescue him, and it was holden no good returne, for that hee did not shew at what place W. N. made the rescue, and it shall not be intended to bee where the arrest was. 10. Ed. 4. 25.
Br. Ret. 97.

In a Premunire the Statute is that the defendants shall bee warned by the space of two moneths befoze the day of the returne, and for that the Sherife returned the warning generally, and did not say what day, nor that it was two moneths befoze the returne, therefore the returne was holden to bee insufficient; yet the contrarie was holden: 39. Ed. 3. 7. Br. 56. And that it shall bee intended that it is well serued according to the Law; for other writs ought to bee serued by the space of fifteen dayes befoze the returne, and yet no mention thereof is made in the returne: And if the Sherife doe not warne the partie, nor serue the writ as hee ought, the partie if hee bee dammified may haue a writ of Deceit against the Sherife. 43 E. 3. 7.
Br. 103.

And so in a Pluries for a Corodie, the Sherife returneth that the Bishop of H. is founder, and returneth not the name of that Bishop which founded it, and therefore it was holden to be incertaine, quia oportet nominare primum Episcopum fundatorem, sc. Herbertum, &c. 8. H. 7. 6.
Br. 116.

If a writ bee returned thus, responsio vicecomitis C. and sheweth not the Sherifes name, it is no good returne by the opinion of Iennie, 3. E. 4. 9. E. 4. 19.
Br. 54.

If the Sherife returneth, mandauit balliuo libertat' R. and sheweth not whose libertie it is, or who is Lord of the franchise, this is no good returne by Pigot, but Danbie held the contrarie: 9. Edw. 4. 19. see 1. Hen. 6. fol. 6. Br. 64. Ibid.

If the Sherife returneth mandauit balliuo libertat' de D. and saith not balliuo I. N. libertatis suæ de S. this was good by the opinions of thre Iustices, but Hales Iustice held the contrarie: 1. H. 6. fol. 6.

In a Scire facias, the Sherife returneth Scire feci, E. K. modo & forma prout istud breue in se exigit & requirit, and saith not infranominat' E. K. and yet this was holden (by the Court) to bee good: for note that these wordes, prout breue exigit, &c. doth amount to infra nominatus, or infra scriptus: see the booke 2. H. 4. 13. & 3. H. 4. 9. Br. 28. Fitz. 44. the like return vpon a Scire feci against two or thre seuerall tenants, 1. H. 6. 6.
Br. 64.
11. H. 7. 23.

tenants, the Sherife returned Scire feci, &c. modo & forma prout breue exigit, &c. and it was holden to be good, without saying or returning seperatim scire feci, &c.

If the Sherife returne vpon a Capias against I. & N. quod caput corpus I. & N. and saith not infra nominat I. & N. this is mispision and must be amended, and yet by the Reporter it is well enough without amendment.

An Attarie was returned in this manner, Ad com. tentum apud I. in com. Somerset, I. M. exactus fuit & non comparuit, &c. and it was holden (by three Justices) a good returne, although it were not Ad com. Somerset, tentum apud I. in com. Somerset, but Iay Justice held the contrarie, for that it could not be intended of what Countie the Countie which was holden was but alij e contra: 11. H. 7. 10. Br. 127. Ideo quare.

Note that in the former Case, this word Somerset, was not entred in the Margent, or vpon the head of the returne, which is and hath bene the auncient vslage, and seemeth also to bee verie materiall: See 11. Hen. 7. 10. 2. b.

Also see Co. 10. 141, a returne of an Exigent holden void for the incertaintie.

An Attarie returned in London, in these words, Ad Husting. tentum in Guildhall, Ciuitatis Londini, tali die A. B. exactus fuit & non comparuit, this is no good returne, for that there are two Hustings in London, one is de communibus placitis, the other is de placitis terræ, and therefore in such case the returne must bee Apud Hustingum de communibus placitis, &c. or otherwise it is not good for that the same may haue two intendments.

11. H. 7.
10. b.

The Citie of Norwich is within the Countie of Norfolk; also it is a Countie in it selfe, which may hold plea; and therefore if a returne bee made in these words, ad com. tentum apud Norwicum in com. Norff. this is not good, for that it may haue two intendments: scz. that the Countie which was held there was for the Citie, or for the Countie of Norfolk: But if the returne bee in these words, ad com. tentum apud Norwicum in com. Norff. this is good, for now it cannot bee intended, but onely that this Countie was held for the Countie of Norfolk.

2. Intendments.

Co. 494.

In a writ of Errour to reuerse an Attarie in the Countie of Lancaster, and the errour was for that the Sherife returned, quod ad com. Lancastrie, tent. ibid. &c. where it should

Returne of Writs.

Should haue been ad com Lancastria, rent' apud Lancaster, or at some other certain place, whereto that word, Ibidem, might haue had relation, and the Utlarie was therefore reuerſed.

One was Utlawed, and the Exigent was returned thus, ^{21.H.7.}
ad com tentum apud castrum de Oxen, primo exactus fuit, &c.
and for that it was not set downe in what Countie, it was holden to be erroneous.

One was returned Utlawed, and for that it did not ap- ^{Ibidem.}
peare that it was p Iudicium coronatorum, it was reuer-
ſed, and that without any writ of Error: 21. H. 7. fol.

An Exigent went out to the Sherifes of London against
I. S. of D. in the Countie of Essex gentl, and Proclama-
tion to the Sherifes of Essex, who returned the writ in ^{27.H.8.29.}
this manner; Virtute istius brevis proclamati feci ad com ^{Br.3.}
talem, tentum tali die, and did not set downe in what
peare, &c. Et quod se reddidit vic' Kancie, where it should
haue beene vic' London: And for these causes it was
holden no good returne, and the Sheriffe should haue beene
amerced, but that the writ was returned in another terme.

In a writ to enquire of waste, the Sheriffe returned ^{40.E.3.}
quod capie Inquisitionem die Sabbati proxim' apud K. and ^{Br.17.}
for that hee shewed not what Saturday, and also
shewed not quod iuit ad locum vastarū prout breue exi-
git, it was holden no good returne, and the Sheriffe was
amerced.

In an attaint the writ was, & diligent' inquir' qui ^{34.aff.6.}
fuer' Iuratores primæ Inquisitionis, and whether M. B. Miles ^{Br.76.}
were one of the petit Jurie, the Sheriffe returned their
names, and that M. B. was dead, and did not say M. B. Miles,
so as it might bee intended to be another person, and yet it
was holden a good returne.

In a Scire facias to haue execution of an annuitt against ^{2.E.4.1.}
a Parson, the Sheriffe returned, quod non habet bona,
and notwithstanding that it was not further, Nec habuit
die receptionis brevis, yet it seemeth to be intendable, and so
to be good.

In waste, or Redisseisin in diuers totones the Sheriffe
ought to goe to all the Totonnes (though hee may take
his inquisition at one) and he returned, quod accessit ad D. &
ibid capie inquisitionem, and holden good, for that by in-
tendment he likewise might goe to all the other totones, &c.
^{40.aff.23. Br. Rediff.5.}

Also sometimes the returne of the Sheriffe is onely to ^{Co.2.107.}
certifie and ascertaine the Court of the truth of the matter, ^{108.}
and

*Ben per in-
landmch.*

and in such case there needs no such precise certaintie as in pleadings: see the Case of the Citie of London, Co. 8.

A Double returne made by the Sherife is not good, as if the Sherife returneth (the Pluries against an Abbot to admit the Kings Walett to a Coradie) that the King is not founder, and that King Edward the iiii. did release to the Abbie all Coradies, this is Double and so void. *Double.*

3.H.7.fol.6.
Br. Ret. 116.

The Sherife by his office and oath, is to make a true and iust returne of all writs: see his Oath, & Dyer 60.b. *True.*

13.E.1.c.39
28.E.1.c.16

And by the statutes, if the Sherife shall make any false returne, he shall be punished, scz. hee shall bee amerced: stat. 13.E.1.39. & 28.E.1.16.

7.H.4.13.

Where the father was condemned, and vpon the Exigent vpon a Capias ad satisfaciend, the Sherife returned quod reddidit se, and it was the sonne which came (and so auerred and found to be the sonne) and the Sherife was amerced.

37.H.6.21.
Br. 59.

Vpon an Exigent the Sherife returneth quartus exactus, and the Coroners vpon a Certiorare to them directed, certified that the defendant was belatwed, the Sherife for such false returne was amerced at fortie pounds.

5.Eliz.c.23.

If any Sherife or other hauing authoritie to returne writs, doe make an vnttrue returne vpon any Capias, in a writ of Excommunicato capiendo to him directed, that the partie named in the writ hath not yeelded his bodie vpon any proclamation made, where indeed he hath yeelded himselfe according to the effect thereof, hee shall forfeit to the partie grieved fortie pounds to be recouered by action, &c.

Fitz. 93.b.

If the Sherife in a writ of Account, or Debt, shall returne vpon one, quod non est inventus, nec habet terras, &c. per quod distringi potest, &c. whereupon a Capias shall bee awarded against him, and hee shall be taken thereupon, whereas hee had lands sufficient, or goods and chattels, then the partie may haue his action of the Case against the Sherife (directed to the Coroners) for such false returne.

Fitz. 97.c.

In a praecipe quod reddat, if the Sherife returne the Tenant summoned, when hee was not summoned, whereby the Tenant loseth by default vpon the Grand Cape returned: here the Tenant shall haue a writ of Disceit against him which recouereth, and also against

Returne of Writs.

against the Sherife for his false returne.

And yet in some cases the Sherife shall not be amerced or punished for making a false returne, as in an attaint, if the Sherife shall returne any to be of a petie Jurie, which were not, Proceſſes shall goe out against those whose names were omitted, but the Sherife shall not be theretofore amerced: see hic.

48. Ed. 3. 15.
48. aff. 1.

Note that the Sherife cannot returne any thing which is contrarie to the verdict of the Jurie, or confession of the partie, as in an action of Debt against executors, who plead that they haue fully administred, and it was found against them, scz. that they had Assets remaining, whereupon a Fieri facias was awarded to the Sherife to leuie the summe of the goods of the testator, and the Sherife returned Mandavi ballivo libertatis de K. qui mihi dedit responsum, quod executores predicti testatoris non habent aliqua bona testatoris, &c. the which returne was contrarie to the verdict, &c. and theretofore not good.

7. H. 7. 12.
Br. 87.

In a Replevin it is no good returne, that there are no such goods or cattell: 5. H. 7. 27.

In a Writ to deliuer goods vpon a Detinue, it is no good returne, that there are no such goods, Ibid.

In a Habere facias seisinam, it is no good returne that there is no such land, Ibid.

The Sherife cannot returne nihil, vpon him whom he hath once returned, summoned, or distrained vpon another Writ, tamen quare, for such returne may be good vpon some speciall matter returned.

22. aff. 80.
Br. 110.

By the opinions of Fort. and Markeham, if the defendant be returned sufficient, and after Nichill, it is good, for that the plaintife may haue a Capias, and an Exigent against him; but otherwise against a Juroz: Br. 49.

19. H. 6. 38.

Falso Latin.

But false Latin is not greatly materiall in the returne of a Writ, &c. As if the Sherife shall returne in a pannel, Iohannis D. where it should be Iohannes D. yet it is a good returne.

The Sherife returned Scire feci I. A. Cl'io, whereas it should be Cl'ico, and it was amended: 7. H. 6. 1.

7. H. 6. 1.

Cepi corpus.

If the Sherife returne vpon any person Cepi corpus, or Reddidit se, the Sherife shall be chargeable to haue the bodies of the said persons at the dayes of the returnes of the Writs, Bills, or Warrants, &c. 23. H. 6. c. 10. And so was the ancient Common Law.

The Sherife returneth Cepi corpus, but hath not the bodie

44.E.3.fol.2
11.H.4.657.

bodie at the day hee shall bee amerced: 44.E.3.2.yea
although a protection were cast for the defendant: 11.

Hen. 3. 11.
So if the Sherife returneth quod mandavit balliis, &c.
qui respondit quod coepit corpus, and if the prisoner appea-
reth not at the day, the Sherife shall bee amerced by some
opinions; but by other opinions, the Bayliffe onely shall
be amerced: see hic postea.

The Sherife returneth Reddit se upon the Exigent, but
hath not the bodie, he shall be amerced.

Upon a capias ad satisfac' if the Sherife returneth a
coepi corpus, and hath not the bodie, hee shall not onely be
amerced, but also the plaintife may haue his action against
the Sherife, for an escape, for that his returne hath con-
cluded him: Br. Ret. 107.

Upon a capias for felony, the Sherife returneth coepi cor-
pus, but hath not the bodie at the day, whereupon the She-
rife was amerced for the escape at fiftie pound.

Upon proces against the husband and wife, the Sherife
returneth, quod coepit illos, and at the day the husband ap-
peareth, but not the wife and the Sherife was amerced
therefore.

But if the Sherife had returned that the husband non
est inventus, and that he had taken the wife, and she only had
appeared, that had excused him.

Upon a Fieri facias, the Sherife returneth Fieri feci ad
diem infra content, and at the day hee hath not the money
in Court, and after a new Sherife was made, and it was
mooued to haue a Distresse, nuper vicecom' ad habendum de-
narios, &c. But Littleton said, That the Iustices were ad-
uised upon this returne, being of record, to award a Scire
facias against the old Sherife to haue execution, and if hee
could not discharge himselfe, then the partie should haue ex-
ecution against the old Sherife by Fieri facias, or Elegit. 9.E.
4.Br.Ret.55.

Upon a Fieri facias, if the Sherife leuieth the money, but
yet returneth not the writ, nor payeth the money to the
plaintife, it seemeth the plaintife may haue his action of
Account against the Sherife: as also the defendant may
haue his action of Trespasse against the Sherife for leuy-
ing the money, and not returning the writ, vide 11.H.
4.&27.H.7.22.b.Br.Tresp.211.

Returme of Writs.

Vic amerce.

Note that the Sherife shall bee amerced for his retorne in diuers cases.

As if his retorne be incertaine, or otherwise insufficient : Br. Ret. 3. hic antea.

So if his retorne bee false : Stat. 28. E. 1. cap. 16. & hic antea.

So if he make no retorne : hic postea.

So in a Replevin if hee retorne that the cattell bee in a fort or Castle.

So if hee retorne hee could not execute the writ for resistance, &c.

The Sherife shall bee amerced for returning small or no issues, vpon the defendant : Stat. 13. E. 1. cap. 39. & Bro. Ret. 120. & 86.

The Sherife shall bee amerced for not returning issues vpon Iurozs, according to the Statutes.

The Sherife shall be amerced for not returning pledges : Br. Ret. 25. 61. 86.

But note that the vse is to amerce the Sherife the same terme onely wherein hee maketh his retorne, and if hee bee not amerced that terme, then hee is to goe quit, quod nota per Fitz. 27. H. 8. fol. 29. a.

*Per default.
de anter.*

Upon a writ to enquire of damages, the Sherife returneth that the enquest or Iurie gaue or found no damages, the Sherife shall not be amerced for this default of the Iurie : for the Sherife shall not bee amerced, but where hee returneth the writ falsly or insufficiently of himselfe, whereas heere hee returned it as the Iurie had presented it. 44. E. 3. 31.
Br. 120.

*Del South-
vic*

And yet the Sherife shall be amerced for the default of his Undersherife ; as in the booke of Assises, where the Undersherife returned a pannell by a Precept directed to one who was not Baylife of franchise, by reason whereof the pannell was qualitt, there the Sherife himselfe was amerced and not the Undersherife ; and an action of the Case doth lie against the Sherife himselfe, for the retorne is alwayes in the name of the Sherife himselfe : see hic postea tit. Sherifes Officers. 38. ass. p. 13.
Br. 77.

Del Baylifes.

So the Sherife shall bee amerced for the default of his Baylife.

If any Bailiffe or other officer shall impannell or retorne any person, vpon any inquirie in the Sherifes Turne, which is not of good name and haue 20. s. p annum of freehold, or 26. s. 8. d. p annum of Coppyhold, &c. such officers shall lose for

for enerie person otherwile returned or impannelled fortie shillings, and the Sherife other fortie shillings &c. 1. R. 3. cap. 4. hic postea Sherifes Torne.

Also sometimes the Sherife hath bene amerced for the default of the Bailife of the libertie; and therefore where two were indited of felonie, and pleaded not guiltie, the Sherife returned certaine persons, and by examination of the Iustices it appeared that they had not sufficient freehold, according to the statute, and the Sherife was amerced at five pounds, the Sherife said that the Bailife of the franchise of Burp made the returne, whereunto Greene Justice answered, That the king had no minister but the Sherif: But note that in this case the king was a party, and where the king is a party no franchise shall bee allowed, but the Sherife himselfe ought to haue serued and executed the writ.

*Del bailife
de Libertie.*

Br. 4. 89.

The Sherife retorneed a Capias qd. mandauit ballivo &c. qui respondit quod cepit Corpus, and the prisoner appeared not at the day, the Sherife was amerced; for where the Bailif made a false retorne to the Sherife, and the Sherife retorneed it (as quod cepit Corpus, and had it not at the day) yet the bailife shall not bee amerced, for that he is not the immediate Officer to the Court, but the Sherife is the immediate Officer.

Br. 3. 87. 92.
94. 96. 99.

And yet there were sundrie authorities to the contrarie sc. that in the former case the Bailife of the franchise shall be amerced and not the Sherife, and that the default was only in the Bailife and not in the Sherife; for vpon such retorne of the Bailife (to the Sherife) quod cepit Corpus &c. The bailife was bound to bring in the bodie into the Court at the day, or else to deliuer the bodie to the Sherife, and then the Sherife was to bring in the bodie as the immediate officer to the Court.

Bf 89.

But where the bailife of the libertie made an insufficient returne to the Sherife, and the Sherife returned it, he shall bee amerced: And therefore when the bailife made an insufficient returne the Sherif should haue done well, and might haue returned, quod nullum dedit responsum, for an insufficient answer or returne, is as none.

As in a praeipe against two, the bailife returneth one of them summoned, and the other not, this is no answer, and if the Sherife returne this he shall be amerced, Br. 89.

3. H. 6. 9.
Bf 47.

So in an assise the Sherife returned, mandauit balliuo &c. qui mihi respondit &c. and returned but nine Iurozs, and the

Returne of Writs.

the Sherife was amerced, for that he ought to haue returned quod mandauit &c. qui nullum mihi dedit responsum.

So the Sherife returned, mandauit ballivo &c. qui mihi respondit, that the executozs had no goods of the Testator, which returne of the bailly was contrarie to the verdict of the Iurie (who had found assets &c.) and therefore the Sherife was amerced; for that the returne of the bailife appeared insufficient in law, whereof the Sherife ought to haue taken notice, and in such case to haue returned, quod ballivus non dedit responsum. 3.H.7.12
Br.87.

But if the bailife maketh a doubtfull returne and the Sherife returneth this, it seemeth he shall not be amerced, by the opinion of Vauisfor, 5.H.7.27.Br.89.

But now by the statute made 27.H.8. cap. 24. amerciaments for insufficient returnes of writs, made by bailifes of liberties, shall bee set vpon the heads of such bailifes, and not vpon the Sherife. 27.H.8.24

Where the Sherife makes no Returne.

Fait nul returne: If the Sherife will not returne his writ (in case of Redif-
feisin, or vtlarie) the partie may haue a Certiorari, directed to the Sherife, to command and cause him to returne the writ.

If a Capias, or other meane proces, be executed and not returned the arrest is not tortious and a wrong; for the arrest is made to that end, that the defendant should appeare to answer to the plaintife, in his action: But if an arrest be made by the bailife, and the Sherife wil not returne the writ, this laches of the master shall not prejudice the seruant, for the bailly cannot compell the Sherife to returne the writ, but contrarie wise of the master himselte, scz. if the Sherife taketh one vpon a Capias and returneth not the writ, an action of Faux imprisonment lyeth against him, by him that was arrested; and the plaintife also shall haue his remedie against the Sherife, Littleton 18. E.4.9.Br. Trespa. 339.Br. false imprisonment 5.7.& 12.ac; And yet in the booke of 13 H.7.fol. 1.2 this difference is taken sc. that if the bailife of a libertie by vertue of a warrant from the Sherife arrests a man and after the Sherife returneth, non est inventus, the bailife shall bee discharged in an action of false imprisonment for that he is not the Sherifes bailife, but the Kings or some other Lords; but otherwise it is of the Sherifes bailife, if he arrests a man by vertue of a warrant from the Sherife Co.5.90
3.H.7.3.b
21.H.7.22 a

Sherife, and after the Sherife returneth *Non est inventus*, this bailife is chargeable in an action of false imprisonment, for it shall be accounted his follie to doe a thing by his masters warrant or commandement, and then his master will not returne the writ according to that which he hath done. See 21 H. 7. fol. 22. accord^t that the sherifes bailife or seruant is not bound to do any thing but that which his master wil iustifie.

Co. 4. 67. &
5. 90.

But in all writs of execution (except an *Elegit*) as vpon a *Capias ad satisfaciendum*, *Haberi facias seisinam*, vel *possessio* nⁱ, *Fieri facias*, *Liberate*, &c. if the execution be duely Done, although the writ bee neuer returned or filed, it is no great matter, if the plaintife haue his demaund, for then he hath no cause to proceede any further therein: But in case of an *Elegit*, because the extent is to be made by an Enquest, and not by the sherife alone, that ought to be returned, or else it is nothing worth.

Co. 4. 67. 2.

But where no enquest is to be taken, but only land to be deliuered, or seisin had, or goods to be sold &c. which are but matters in *fact*, these are good although that the writ bee not returned.

Vpon a *Fieri facias* &c. if the sherife leuieth the money or debt, but neither returneth the writ, nor paieth the money to the plaintife, he is chargeable to the plaintife in an action of account, &c. and to the defendant in an action of trespass. But if the sherife had paieth the money to the plaintife, the execution had beene good without returne of the writ, Co. 5. 90. As also the sherife had beene without danger to be sued either by the plaintife or defendant.

And so note a difference betweene a *Capias* in proces, and a *Capias ad satisfaciendum*: scz. if the *Capias* in proces bee not returned, the arrest is tortious; but if the *Capias ad satisfaciendum* be not returned, yet it is good, if the execution be duely Done, and the plaintife satisfied.

Co. 5. 90.

Note also, if the sherife vpon a *Fieri facias* shall execute the writ, and leuie the debt, but shall neither returne the writ, nor pay the money to the plaintife, yet first the leuying of the debt was lawfull, and the defendant could not resist the sherife therein; secondly, the plaintife may haue a new execution against the defendant, and the defendant is left to his action against the sherife; thirdly, the sale of the goods (by the sherife) by force of the *Fieri facias* is good, and such as shall so buy the goods may lawfully enioy them. And where the words of the writ of *Fieri facias* be, *Ita quod habeas*

Returue of Writs.

Amerce.

habeas denarios &c. they are but wordes of commaundement to the sherife to make returue, the which if he doth not, hee shall be amerced therfore, but yet the execution shall stand in it force.

*Le briefe
essoin.*

In an action of Disceit against the sherife, for that the partie was outlawed at the suit of the plaintife, and that the sherife (then defendant) did not returue the writ, to the damage of the plaintife &c. the sherife pleaded that hee had sent the writ by A.B. his seruant, towards the court, and that one of them which were named in the Exigent did rob and take away the same writ from his said seruant by the highway, and it was holden to bee no plea, but the action against the sherife to be maintainable. 41. ass. pl. 12. Br. Action sur le case 121. But note that in this former case the writ which was taken away from the sherifes seruant, was throught the default of the sherife, for it was taken away by one of the persons which were outlawed, whom the sherife ought to haue taken and kept in prison &c.

Br. Barr. 68.

The head and chiefe officer or officers of euerie of the kings courts of reuennue, being of record, shall haue power and authoritie to set and asseesse reasonable fines and amerciaments vpon any sherife, for not returning, or misretur-ning of any writ to them directed and deliuered out of any of the same courts, touching or concerning the leuying or answering of any issues, rents, or reuennues, or of any debt due to the king &c.

7 E. 6. c. 1.

If any writ of Proclamation (vpon any Exigent) directed to any of the sherifes of any of the twelue Shires in Wales, or Countie Palantine &c. be deliuered to any of the said sherifes, or to his deputie, and the same sherife do not make true returue thereof into such court out of the which the said writ of Proclamation shall bee awarded, he shall forfeit for euerie default of non returue to the king and In- former five pound &c. 1. Ed. 6. cap. 10. & 5. E. 6. ca. 26.

If any such writ or writs of Proclamation directed to the Bishop or Chauncelloz of the Bishopricke of Dur- ham, or countie Palantine, be deliuered vnto any of the said Bishops for the time being, or (during the vacation of the said Bishopricke) to the Chauncelloz of the said Countie Palantine, for the time being, or to his or their deputie or deputies in manner and forme aforesaid, and the same Bi- shop for the time being, or (during the vacation of the saide Bishopricke) the said Chauncelloz of the said Countie Pa- lantine for the time being, do not make true returue of euery such

such writ and writs of Proclamation to them directed into such Court and Courts out of which the said writ or writs of proclamation shall bee awarded; for every such default of non returne, every such Bishop for the time being, and (during the vacation of the said See) the said Chancelor for the time being, so failing to make due returne shall forfeit 5 l. to the King and Informer. 31. El. ca. 9.

Note that it is no good returne for the sherife, that the party wil not pay him his fee, or costs or charges, and therefore he did not execute the writ, or did not serve the writ. 34. H. 6. Br. Ret. 10.

The Bishop is not bound to award his inquirie of a lurre patronatus, (where the church is litigious) but where the partie or his clerke shall require it, and that at the costs of the party, or of his clerke, for that he is a Judge in this case, and therefore he is not to do it at his owne costs and charges; but contrariwise where he is an officer, for there when the court writeth to him to certifie bastardie or matrimonie, or the like, hee is to doe that at his owne costs and charges.

7. H. 6. 31.
3. H. 6. 3.
Br. 46.

Note that in some cases, although the sherife serveth not, or executeth not the proces, but excuseth it by his returne, it is good. As

1 In a Replevin the sherife returneth that the defendant claimeth propertie. Br. 46. Fitz. 77. c.

So in a writ de Nativitate habendo, if the villaine alledge to the sherife that hee is free, and the sherife returneth this. Fitz. 77.

Ibid.

And so of other impediments which shall interrupt the sherife to make his returne, or to take the partie.

2 The sherifes of London returne their custome. See Br. Custome 23 & Retorn 40. & 46.

3 The sherife of Chester, or of any other countie Pallatine, return that they have a countie pallatine within themselves &c. Br. 46.

Ibid.

4 Also where the sherife returneth Mandavi ballivo libertatis &c. here although the sherife served not, or executed not the writ himselfe, but excuseth it by such his returne, shewing thereby why he hath not served it, yet it is good.

Returne de Mandavi ballivo.

The sherife returneth Mandavi I. B. ballivo libertatis de E. cui executio istius brevis pertinet &c. whereas he should have returned, quod ballivus habet retoma omnium brevium, & executio

Returne of VVrits.

executio eorundem; and it was moued that the sherife should haue beene amerced.

The sherife returneth mandavi A. D. ballivo libertatis Ducatus Lanc. &c. qui habet retorna omnium breuium infra libertatem predictam &c. Exception was taken against the returne, for that it was not ballivo libertatis Ducatus Lanc. (for that the Duchie hath no capacitie to haue a libertie) but yet it was holden a good returne. And so mandavi ballivo libertatis sancti Edmundi de Burie; and mandavi ballivo libertatis Ducatus Lanc. and the like are good returnes;

where the sherife returneth mandavi ballivo libertatis de S. and doth not shew to whom he is bailife, or whose the libertie is, scz. ballivo I. D. libertatis sue de S. yet it was holden to bee a good returne by three Justices in 1. H. 6. But there Hales Justice held the contrarie, scz. that the sherife in his returne ought to shew who is Lord of the franchise, See 9. E. 4. 19. Br. 54.

The sherife returned mandavi tali &c. qui habet retorna omnium breuium & executione eorundem per chartam Regis, And for that the bailife was not returned bailife of some franchise, or Lord, the sherife was amerced, quere and see the statute of Westm. 2. cap. 39.

If the sherife shall returne mandavi ballivo libertatis de D. who did nothing therein, whereas there is no such libertie within the countie, or nameth a libertie which hath not returne of writs, the sherife shall be punished, as a disinheriter of the king, and his crowne, and therefore it is needfull for the sherife to haue out of the treasure of the Exchequer a note of all the liberties within his countie that haue returne of writs.

If the sherife doth returne, that he hath directed his precept to the bailifes of some libertie (which in deed haue returne of writs) which did nothing therein, then the sherife shall be commanded, that he shall not omit for any libertie aforesaid but shal execute the kings commandement, & that he shall warie the bailifes to whom he returned the writ, that they shall appeare at a day contained in the writ, to answer why they did not execute the kings precept, And if they do appeare at the day, and do acquit themselves that the writ was not returned vnto them, the sherife shall bee forthwith condemned to the Lord of the same libertie, and likewise to the partie grieved by delay, to restore him Mandamages. But if the bailifes do not appeare, and do not acquite themselves in forme aforesaid, in euery iudiciall writ,

13. Ed. 1. 39.

Non omittat.

*Mandavi
ballivo li-
bertatis.*

Writ, so long as that suit dependeth, the sherife shall bee commaunded that he spare for no libertie &c. Westm 2. 13. Ed. 1. 39.

11. E. 1. 5.

There shall be an Indenture made betwixt the bailife of the franchise (which hath full returme of writs) by his proper name, and the sherife by his proper name, of euerie returme which the bailife of any such franchise shall make to the sherife: And if the sherife doe change the returme so delivered vnto him by Indenture, and thereof bee attainted at the suit of the Lord of the same franchise from whence hee hath receiued the said returme (if the Lord haue receiued any damage, or if his franchise be impaired) and at the suit of the partie which hath receiued losse by this meanes, he shall be punished by the king for his false returme, and also shall yeeld to the Lord and the partie double Damunages, Stat. Ebor 12. E. 1. ca. 5.

*Indenture
betweene the
sherife and
bailife.*

The sherife returneth mandavi ballivo libertatis &c. who serueth and executeth the proces in part, this seemeth not good, for that the sherife himselfe must execute or serue and returme all, or the bailife all. See 2. Hen. 4. 1. & 8. Hen. 4. 16. And yet in a Priuilege quod reddat the sherife was amerced for that hee returned mandavi ballivo libertatis &c. who tooke the pledges and made the summonses &c. for that the sherif himselfe ought to haue taken the pledges de psequed although he cannot serue the summonses, for first he ought to take pledges, and then shal make his Mandavit to the bailife &c. and so the sherife may returme the pledges de psequendo, and the bailife of the franchise all the rest.

So where the issue is of land part guildable, and part in a franchise, the Iurie shal be returned part by the sherife, and part by the bailife of the franchise, and so they may ioine in the returme; But the distresse shall be by the sherife only, if the bailife of the franchise shall be slacke.

*Iurie retorn
pars per vic
part per bai-
life.*

Br. 50.

The sherife returneth other persons (in a panell) than the bailife of the franchise returned to him, yet the returme of the sherife seemeth to be good; but the bailife may haue his action of the case against the sherife.

*Vicint retorn
auter que le
bailife.*

Br. 72.
30. ass. 5.

The sherife maketh his Precept or Warrant to one who is no bailife of the franchise, who returned the panell, by reason whereof it was qualshed, to the damage of the plaintife &c. who brought his action of the case against the sherife, and recovered his damages, notwithstanding that this was done by the aduise of the friends of the plaintife, and so pleaded.

*Al vn qua nō
bailife del
seignior.*

38. ass. p. 13.
Br. Action
sur le case
130.

Returne of Writs.

*Nullum de-
diti responsum*

The Sherife (vpon a Repleuin) returneth Mandavi ballivo libertatis &c. Qui mihi nullum dedit responsum, or returnes that the bailife will not make deliuerance &c. these are no good returns, for the Sherife vpon such returnes ought himselfe to haue entred the franchise, and to haue made deliuerance of the cattell &c. Fitz. 68.f.

Vpon a Distringas for Debt, the Sherif returned Mandavi ballivo &c. qui nullum dedit responsum. And for that the Sherife did not returne, Quod nullus habet exitum in balliu sua, therefore he was amerced. 47.E.3.fo.3. Br. 23.

Note that where the returne of the writ pertaineth to the bailife of a Libertie, yet if the Sherife doth it himselfe, it is well enough. 3.H.7.2.b.

Also note where the Sherife serueth the proces once of a thing locall, as in a praecipe of land &c. he cannot after return Mandavi ballivo. 5.H.7.
Br. 89.

Where the Sherife is to enter the Franchise.

Roy partie.

Note that wheresoeuer the king is a partie (as against a felon, or otherwise in any action) the Sherif is to enter the franchise, and to execute and serue the proces himselfe, and not to write to the bailife of the franchise. Br. Franch. 18.31. 38.aff. 19. Br. Retorn 78 And yet if this clause Licet fuerimus pars be in the charter, then it seemeth otherwise.

*Sur default
le bailife.*

Also in other cases, vpon the default of the bailife of the franchise, the Sherife is to enter the franchise, and to execute the proces himselfe, or else he shall be amerced: As where the Sherife mandavit ballivo libertatis, and the bailife nullum dedit responsum. See the stat. 13.E.1.ca.39. & hic postea tit. Bailifes of Franchises.

*On vicont
est Image.*

In a writ to inquire of waste the Sherife returned Mandavi ballivo libertatis &c. qui nullum dedit responsum. and the Sherife was amerced, for that in this writ he ought to haue entred the franchise, for that he is both a Judge and an officer by the stat. which is, quod accedat ad locum vastatum &c. & ibi facere inquisitionem &c. So in Redisseisin, and in a writ of Ward &c. See more hic postea.

Quere in the former case where the bailife of the franchise maketh default, if the Sherife is not to haue a writ with a non omittas therein directed to him, commaunding him to enter the franchise, and to make execution of the writ, before he may enter the franchise to execute the proces, for the words of the statute of 13.E.1.39. are that the Sherife

Sherife shall be commanded, quod non omittat propter aliquā libertatē &c. See Fitz. 68.f. & 266.d. & P. Retor 3.

And this statute of Westm. 2. ca. 39. (made ann 13. Ed. 1.) doth giue a Non omittas propter libertatem.

But in other cases where a man hath a Libertie to retourn Writs, and to execute them &c. if there the Sherife or his officer shall enter the Libertie, and execute any proces there, the Lord of the Libertie shall haue his Action of the case against him. Fitz. 95.b. See hic postea fol.

27. a. 65.
Br. Proc. 98.

Where there is a bailife of fee, the Sherif shall not returne Mandavi ballivo (as it seemeth) nor writte to the bailife of fee, as to a bailife of a franchise or Libertie, but hee shall send his precept to him as to the bailife of Guildable: and the Sherife shall returne his answer, or make his returne, as if the Sherife himselfe had serued the proces, and shall not in his returne make mention of the bailife of fee, as hee shall doe of the bailife of a Libertie: And yet note that this bailife is an officer of fee within this precinct, so that if such a bailife of fee will not execute the proces, a Non omittas shall not goe out to the Sherife &c.

Bailife of fee

All proces against any person, directed to the Sherife, ought to be duely and truly executed and returned into such courts, out of the which such proces shall be awarded.

In quel court

The Sherife (as also the bailifes of Liberties which receiue the Kings Writs returnable in his court) ought to set their names to their returne (sc. their surnames and christian names. Plo. 63. a.) so that the court may know of whom they tooke such returnes, if need be: And this is by force of the statute of 12. Ed. 2. ca. 5.

*Mittor loun
nosme al re-
turne.*

Br. 48. 54.
81. 129.

And if any Sherife or bailife do leane out his name in his returne, they shall be grievously amerced. And by the opinion of Ienny 9. E. 4. fol. 20. a returne without the Sherifes name thereto is void; and an vtlarie was reuerfed for such cause, 26. H. 8. 3. Thel. 385. See Plo. 63. a. that the Writs are directed to the Sherife of such a countie generally without naming his name, but he must put his name to the returne; and this was a common difference holden at mootes in Court and Chancery.

If the Sherife shall not put his name to the returne of a Jurie, or shall returne the Venire fac without any indorsement, these are erronious, and not to be amended. Co. 8. 162. 163. & 5. 41. 42.

Returne of Writs.

If one returneth a writ in and by the name of the Sherife who is no sherife, this is erroneous by Gascoyne, 21. Hen.4. Br.49.

*On terra
amend.*

But note that the returne of the Sherife being erroneous, or not good, yet it may be amended by the court in diuers cases, yea although such returne were made in another Sherifes time. 22.H.6.45. 33.H.6.47. 37.H.6.12. & 2.H.5.8.

As where the Sherife by negligence shall omit any of the Jurors in the Distringas, which were in the Venire facias, or shall returne T.B. for A.B. Or shall returne octo tales for decem tales; these shall be amended by the Sherife upon his examination in court. Br.59.

The Sherife hauing returned too small issues prayed to amend his returne, and it was suffered, Br. Issues 1.

See plus hic.

Mes apres verdict sur issue trie &c. la sont diuers defaults in retorne le vicont, queux ne sont amendable. Vide hic postea Retorne de Venire facias.

Vncore per stat. 18.El.ca.13. imperfect on insufficient retournes del vic' sont remedie & amendable.

Where a man may Auerre against the Sherifes
retorne, and where not.

By the statute of Westmin. 2. cap. 39. upon a Distringas against the partie, a man may auerre that the Sherife hath returned too small issues: but (by some opinions) upon a Distringas Iurato, if that the Sherife shall returne too small issues, that is out of the statute, 10.H.7. fol. 11. See 20. Hen.6. fo. 26. 13.E.1.

By the statute made 1.E.3. cap. 5. A man shall haue an auerment against the false returne of bailifes of franchises which haue full returne of writs, and shall recouer as well against them as against the Sherife, as well of small issues returned, as in other cases, so that it be not prejudiciall to the Lords &c. 1.E.3.

Proces vers vouchee, le vic' retorne le vouchee mort, le demandant pe- et auerre que est in vie. 14.E.2.

Sur Venir fac' le vic' retorne 24. Inrai', Et sur le Habeas corpora il

il retorne que, xij. de eux sont morts, le plaignif auera auerment que sont in vic. encontre le retorne, 20. E. 4. fol. 11.

Auerment
contrary al
retorne del
vicount.

Le plaignif pria que le defendant in repleg' gager delinrance, & le defendant dit que ils demont in poud ouert, in default del plaignif, et pria brieft al vicount si constare poterit; si le vic' sur ceo br'e retorne que sont mort, le pl' poit auerre le contrary, & auera, Sicut alias 30. H. 6. 2.

Vicount retorne Mandavi ballivo libertatis de N. que sic respōdit, que auerfois le def. fuit commit al prochain gaole per Auditors sur son accōdant pur arrerages, & que il esteant bailife de ceo gaile luy amesne al prison, & il vient eins sur Cæpi corpus, & dit que nul tiel accōunt, & aia cest auerment nient obstant le retorne del vic' 28. E. 4. 5.

Vn sue br'e de Nativo habendo, le quel fuit deliuer al vic. & puis le def. sua brieft de libertate probanda & c. & le vic' retorne que nul brieft de Natiuo habendo fuit deliuer a luy & lauer auerre le contr' & poet 18. E. 4. 7.

Le vic' retorne sur Exigent, que 4. Exactus, & nient obstant auerment fuit prise que fuit vilage, & ceo fuit certifie per Coroners, & pur ceo le vic' fuit amerce al 50. marks, 36. H. 6. 24.

Amerce al
50. marks.

Vn poet auera auerment in auter action vers retorne del vicount come in couenant le vicount retorn luy garnish, vnc' in detinue poit auerre le contrarie 11. H. 4. 17.

5. E. 4. 1.

Nota un ne poet auer direct auerment encontre retorne de vicount in mesme le action, mes in auter poet, come in det vers bailife de franchise pur escape d'un retorne per le vicount que il ad prise luy per warrant a luy direct sur Capias ad satisfaciend' poet ore in cest action de det auerre que nul tiel warrant fuit a luy direct. Et in assise nient attache per 15. iours, poet estre auerre, & in precipe, que ne fuit summon selonque le ley, est bon auerment in mesme le action; mes nemy, nient attach ou nient summon.

3. E. 4. 20.

Trespas sur Pone, biens fuer' retorne attache, & quant le def. appeare, il ad brieft al vicount a deliuer a luy ses biens arere, & le vicount retorne que redeliuerait, icy le defendant ne poet auerre le contr'. Mesme le ley in retorne de seisin in dower, ne poet auer auerment al contr' car le vicount est officer a que credence serra done & c. mes ou un est sans remedie, & destre disinherite la est auter: come si le vicount in precipe vers un, retorne que il est mort, le demaundant poet auerre que il est in vie: Isint poit dire nient attach per 15. iours, que nest direct auerment mes sur habere facias seisinam, si le vicount retorne habere feci seisinam, lauer ne poit auerre le contrarie 3. E. 4. 20.

Home nauera auerment directment encontre le retorne del vicount sinon que son person est destre charge, Ou que son inheritance a tous iours est destre perdue & ne poit per le ley auer remedie de sauer mesme le inheritance.

Returne of Writs.

Ou le vicont sur Capias retorne non est inventus, homme ne poet auer auerment enconter cest retorne. 2.H.4.15.

Ou sur Corpus cum causa, hors del common banke, le vic' retorne que le party est lye al peace (que est pur le roy) & nient obstant que soit faux, ne poet auer auerment in ceo brieve, al contrarie. 9.H.6.44.

Ou le vic' retorne Mandavi ballivo libertatis Archiepi Ebor', que ^{14.H.6.3.} retorne summi le defendant ne poet auerre que le terre est deins le franchise de Richmond.

Brieve de Disceis est retorne per vic' & le def. auerre que les summoners ore retorne ne fuer' les summi in le Præcipe, & ne poet auer cest auerment enconter le retorne del vic'. 5.E.4.7. & 33.H.6.11.

Ou vic' retorne un vilage, ne poet auerre que ne fuit Exactus forsq; areis ou quatuor foits (ou que ne fuit proclame forsq; 3. ou 4. foits) mes pur son remedie est dauer son action sur le case vers le vic', 10.H.7.23. Br. Action sur le case 122. See hic tit' Proclain.

Mes in appeale le partie poet auer tiel auerment. 10.H.7.23.

In brieve de Enquir' de wast, ac in brieve de Redisseisin le vic' est Iudge, ^{30. a. p. 35.} Et pur ceo in ceux briefes si le vic' fait faux retorne, le partie ne auer ^{7.H.7.4.} auerment enconter son retorne: ne le partie ne poet auerre que le vic' ne ala al lieu &c. 10.H.7.28. & Br. Rediff. 4.6.

Si retorne del vicount seruer pur Indictment.

Rescous de felon.

NOta que coment que est communement dis, que enconter retorne del vicont il ny ad aucun traaverse, auerment, ou respons; uncore si le vicont retorna un Rescous fait a luy, dun que fuit arrest per luy (ou per ses officers) pur felonie, & que est prise hors de son possession; icy non obstant que ceo retorne soit matter de record &c. uncore nest sufficient de seruer come un indictment vers cestuy que fist le rescous, come appert. Fitz. Coron. 48.

Mesme le ley est si le vic' retorne que le prisoner est escape &c. Vide ^{2.E.3.} Fitz. Coron. 149.

Old sberife.

The returne of the old sberife shall not conclude the new sberife.

And therfore where the sberife returned a Jurie de visnet' de D. afterwards the new sberife returned upon the ^{Br. 5.} **Di-stringas**, quod non fuit tale visnet' de D. in dicto comitatu, and this returne of the new sberife was holden to bee good. 3.H.6.56.

Upon a Fieri facias the sberife returned quod caput bona ad valenc' x. l. ad quem non invenit emptores, whereupon there went out to the new sberife a Vendic' expon, who returned that his predecessor non caput bona, Ideo &c. and it was holden to be good.

And

And yet if the old Sherife returneth a Juroz in issues, and the next Sherife returne the same Juroz nihil, the last Sherife shall be amerced, for hee cannot returne nihil, contrarie to the former returne of his predecessor, but hee ought in such case to pursue the last returne, and if any Juroz hath sold his land, or that it bee recovered from him, or that the Juroz was seised in the right of his wife, who after died without issue, or if the Juroz had an estate conditionall, and the condition be perfozmed, and thereupon the feoffoz hath reentred, or the like, in these cases the Sherife ought to returne the speciall matter, and to conclude, Et sic nihil habet : 19.H.6.38.Br.49.

And if the Sherife shall returne a man sufficient, vpon the venire facias, who is not (nor euer was) sufficient, whereby the next sherife is charged with the issues, hee shall haue an action of Disceit vpon the case against his predecessor, for that hee cannot returne nihil contrarie to the former returne of his predecessor, by the opinion of Paston in the former booke and case of 19.H.6.

19.H.6.

And yet by the opinions of Fort. and Markeham (in the same case) if the old Sherife hath returned the defendant sufficient, and the next Sherife shall returne him nihil, this is good, for that the plaintife may haue a Capias and an Exigent against him; but otherwise in case of a Juroz : Br.49.

Now it followeth to shew and set downe the vsuall forms of Returnes, &c.



Returna Summon' Assis.



1

Irtute istius praecepti mihi directi venire feci coram Iusticiarijs infra scriptis, ad diem & locum infra contentum, omnia brevia Assisarum Iuratorum & certificationum in com C. infra se' (coram quibuscunq; Iustic' tam per diuersa brevia dominae Elisabethae, nuper Reginae Angliae, quam per diuersa breuia domini Regis nunc) vna cum pannellis, attachiamentis, reattachiamentis, & omnibus alijs adminicul' Assisarum Iuratas & certificationes illa qualitercunque tangent'. Venire feci etiam coram praefar' Iusticiarijs

2

Retorna Brevium.

rijs ad Gaolum dicti Domini Regis Castri sui Cantebr' de
 prisonibus in ea existentibus deliberat' assignat' ad præfat' diem,
 omnes prison' in gaola prædicta existent', vna cum eorum att-
 achamentis, reattachamentis, & omnibus alijs adminiculis pri-
 son' illos qualitercunque tangent', & de Vic' cujuslibet villæ
 & loci ibidem felon' vnde iidem prisonarij indictati appell'
 siue arrestat' existunt sc' fuerunt tam infra libertates quam
 extra xxiiij. probos & legales homines quibus rei veritas melius
 scieri poterit & inquiri: Et qui prisonar' illos nulla affinitate
 attingunt, vna cum quatuor hominibus & præponit' villæ &
 loci eorum ad faciend' ea quæ tunc ibidem hijs ex parte domini
 Regis nunc injung': Publicè etiam proclam' feci per totam
 ballivam meam, quod omnes illi qui sequi voluerint versus pri-
 son' illos, quod tunc sint ibi versus eos prout justum fuerit pro-
 secutur'. Scire feci etiam omnibus Coron' Iustic' pacis, Se-
 neschall' dominorum & magnat', & ballivis libertat' & hun-
 dred' com' predicti, quod tunc sint ibidem cum rotulis, re-
 cordis, indictamentis, & alijs memorandis suis, ad facien-
 dum ea quæ ad officia sua pertinent, prout interius mihi præ-
 cipitur.

Residuum executionis istius præcepti patet in quibusdam
 scedulis huic præcepto annexatis.

A. B. Armig'. Vic'.

And the Warrants which the Sherife must make by
 vertue of this Precept (for the summoning of the Assises)
 to the Baylifes of Liberties, and Bailifes of Hundreds,
 must containe in them the whole substance of this Precept:
 but toether it be in Latin or English it is not materiall, so
 that it be made in due forme: and it is needfull that the she-
 rife keepe for himselfe a particular note of the names of such
 persons as he nominateth in his Warrant, to be summoned
 to serue in or vpon the grand Iurie, and not to leaue it to
 the discretion of Baylifes to put in and out whom they list
 in that seruice.

The forme of the Warrant made by the Sherife or Vndersherife.

A. B. miles Vic' commitatus prædicti (ballivo libertatis de Cantebr'
 C. vel) ballivo Hundred' de A salutem, Virtute cujusdam
 præcepti mihi directi, tibi mando * Quod venire facias coram
 Iacobo

Retorna Brevium.

77

Set downe
their titles
at large.

Jacobo Ley Milit' & Barronetto, & Johanni Doddridge Milit' &c.
Iusticiarijs Assis. in comitatu prædicto ad Assisas apud Ca-
strum Cantebriḡ in comitatu prædicto decimo die August'
proxim' tenend' (*or thus*, die Lunæ existent' vicesimo die
M. proxim' futuro) omnia brevia, &c. Necnon, &c. seperal.
person' script', ad faciend' ea quæ tunc & ibidem ex par-
te domini Regis eis iniungentur; Publice etiam proclamari
facias per totam ballivam tuā q̄ omnes illi qui sequi voluerint
versus prison' in gaoli (domini Regis) comit. prædict', quod
tunc sint ibi versus eos provt iustum fuerit prosecuturum: Scire
facias etiam omnibus Iustic' pacis, Coronat', seneschallis Domi-
norum & Magnatum, Escheatoribus, ballivis libertatum, & om-
nibus capitā Constabulār infra hundreḡ tuū quod tunc sint ibi
cum rotulis, recordis, indictamentis, & alijs memorandis suis,
ad fac' ea quæ ad seperalia officia sua pertinent. † Et quod tui p̄se
sis ad tunc ibidem ad faciendum omnia ea quæ ad officium tuū
pertinent: Et habeas ibi nomina prædictōr Iustic' Coronat', Se-
neschallium, Escheatorum, ballivorum libertat': Necnon ca-
pitalium Constabulār vnā cum hoc præcepto sub periculo in-
cumbente dat' sub sigillo officij mei tali die & Anno, &c. Anno
Domini 1522.

A.B. Miles Vic'.

Subscriptio.

Tibi etiam mando quod capias *T. C. de I.* (*or* has perso-
nas subscript') Ita quod corpus eius (*or* corpora eorum) ha-
beas corā Iustic' prædictis ad diem & locū prædict' ad responḡ
dicto domino Regi de quibusdam transgr' & contempt' vnde
indictatus existit, (*or* indictati existunt) & hoc, &c.

Tibi etiam mando quod venire fac' has personas in schedula
huius warrant' annexa, nominatas, Ita quod sint ad diem & lo-
cū prædictum ad faciendum ea quæ eis tunc & ibidem iniun-
gentur.

p *H.S.* subvic'

And file a schedule to the backside of this Warrant; in
which schedule may be set downe the names of such as the
Baylives shall warne for the great Enquest by themselves,
and for the Jurie of life and death by themselves. These
two last subscriptions *or* the like, may be written under the
former warrant & then the warrant to be signed vnder the
sherife *or* vnder sherifes hand & seale of office: *Or* else at the
end

Retorna Brevium.

end of the Warrant (scz. vnder it) the Sherife or vnder Sherife may set down the names and dwelling places of such as he will haue warned to serue in or vpon the grand Iurie in particular, and he shall doe well to keepe a note of them, that he may be able to shew to the Court, if need require, who hee had determined to haue returned for that seruice, if they had come, and if the fault fall out to bee in the Baylife, then hee shall be punished and the Sherife excused.

Retorna Summon' Session' pacis.

The forms of the summons of the sessions, see Lambt. 399. & 367

Retorn dicti brevis aliquando vtitur sic, scz. Executio istius brevis patet in quibusdam panhel' huic breui consut', vel annexis.

A. B. Armig' Vic'.

Or thus.

Virtute istius brevis mihi directi, venire feci coram Iusticiar' infra script', apud castrum Cantebr'; infra specificat' die, Anno, & loco infracontent', omnes Constabularios, & Ballivos hundred' infra com' specificat'; Nec non de quolibet dictorum Libertatum & Hundred', viginti quatuor Iurator' ad faciend' ea, quæ eis ex parte Dñi Regis ad tunc & ibidem injunguntur. Ac etiam Scire feci omnibus Constabularijs & Ballivis Hundred' com' infra script', quod tunc sint ibi habentes omnia nomina Artific' laborat' & servient' husbandria, infra hundred' prædict', vad' contra formam statuti inde excessivè capiend': ac insuper sufficient' proclamari feci infra Ballivam meam quod omnes illi qui tam pro Dño Rege, quam pro seipsis versus huiusmodi artifices, laborator', & servient', aliquas querelas iuxta formam statuti ordinationis prædict' conqueri vel prosequi voluerint, quod tunc sint ibi billas suas prosequi, Iusticiamq; ibidem subitur' si sibi viderint expediri, prout interius mihi præcipitur.

A. B. Ar' Vic.

The Warrant must begin in the same forme as the other, (hic fol. prædict' ad not' *) **Quod venire facias coram Iustic' Dñi Regis ad pacem in com' prædicto apud, &c. omnes Constabular' &c. according to the substance of the matter contained in the writ, and to conclude it as the other is concluded;** (vide pag. prædict' ad not' †.)

Or

Or thus.

Cantebr'. A.B. Armig' vic' com' prædict' ballivo Hundred' de Radfeild & Chevelye salutem; virtute brevis Domini Regis mihi directi, tibi mando quod non omittas propter aliquam libertatem in balliva mea, quin eam ingred', & venire facias coram Iustic' Domini Regis ad pacem in com' prædict' conseruandam, necnon ad diuersa felonias, transgr' & alia malefacta in dicto comitatu perpetrata, audiendum & terminandum assignat', apud castrum Cantebr' in com' prædict', die Iovis proximè post clausum Paschæ proxim' futur': omnes constabular' &c. vt supra.

Retorne de Accedas ad Curiam.

Virtute istius brevis mihi direct', in forma infra script' accessi ad curiam infra script' & in plena curia illa recordari feci loquelam infra scriptam: Et recordum illud (prout patet in schedula hic huic brevi annex') habeo coram Iustic' infra script' ad diem & locum infra content' sub sigillo meo, & sigillis I. B. C. D. E. F. & G. H. quatuor proborum & legalium hominū de balliva mea, ex illis qui record' ill' interfuer': Et partibus infra script' diem illum præfixi quod tunc sint ibi in loquel' illa prout iustum fuerit prosecutur' prout interius mihi præcipitur.

Accedas ad Cur.

A.B. Ar' Vic.

The stile of the Court

Ad cur' Baroñ Egidij Alington Militis ibidem tent'.vj. die Februarij Anno, &c. (*reciting le stile del Roy.*) *Horsheath.*

Io. S. quæritur versus *W. W.* de placito captionis & injuste detentionis averiorum suorum. *Quærela.*

The Bailifes Retorne of his Warrant to the Sherife.

Virtute istius præcepti mihi direct' accept' mecum C. D. E. F. G. H. & I. K. quatuor discret' Milit' hundred' de Ch. prædict', accessi ad cur' Eg. Al. Militis, & recordari feci loquelam quæ est in eadem curia inter I. S. quærent' & W. W. deff. Et record illud parat' habeo sub sigillo meo & sigill' prædict' quatuor milit' eiusdē curiæ ex illis qui record' ill' interfuer'. Et partibus prædictis eundem diem præfixi prout mihi præceptum fuit: In cuius rei testimonium tam ego R. F. ballivus hundred' prædict', quam præ-

Retorna Brevium.

dict' C. D. E. F. G. H. & I. K. quatuor legal' milit' hundred' prædict' præsentibus sigilla nostra apposuimus.

Aliter.

Nulla curia infra scripti *Eg. Al. militis* (vnde infra fit mentio) tenta fuit post receptionem hujus brevis, & ante diem Retorn' ejusdem, per quod executio istius brevis ad præsens per me fieri potest.

Aliter in Curia Baron', vel in Hundred'.

Virtute brevis Dñi Regis huic scedula annex' (assumptis mecum : B. C. D. E. F. G. H. I. quatuor legales milites de dicto com' meo) in propria persona mea accessi ad talem hundred', vel ad talem cur', & in plena curia illa, sive in pleno hundred' loquelam coram Iustic' infra script' ad diem & locum interius contentum sub sigillo meo & sigilla quatuor legalium hominum ejusdem curiæ qui recordo illi interfuerunt habeo parat' huic brevi annex' juxta tenorem ejusdem brevis: Et partibus in eodem brevi nominatis eundem diem præfixi quod tunc sint ibi in loquela illa prout justum fuerit, processur' secundum quod istud breve in se exigit & requirit, &c.

Aliter.

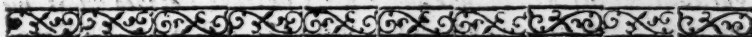
Virtute brevis Dñi Regis huic scedula annex' (assumptis mecum quatuor discret' & legal' milit' de com' C.) accessi ad hundred' vnde in dicto brevi fit mentio, tent' apud B. tali die & Anno, & in plena hundred' illo loquelam vnde in dicto brevi fit mentio, recordar' volui: Et I. S. ballivus ad tunc & ibidem in plena curia sedens (vis. & audit' brevi prædict') libros suos loquelam prædict' tangent' immediate clausit, surrexit, & festinans ab hundred' illo, vna cum omnibus libris illis, & omnibus sect' ejusdem hundred' ad tunc & ibidem existen' assumpsit secum, & indilate recessit; Et præcept' dicti Dñi Regis in dicto brevi specificat', ad tunc & ibidem fieri executum omnino denegavit & contradixit, & libros prædict' indilate ad tunc & ibid' à visu meo vi & armis manufort' abstulit & rescussit per quod executionem istius brevis ad præsens facere non possum.

Note that in this writ de Accedas ad Curiam, the Sherif must take with him foure men, but they need not to be knights; and hee must returne this writ vnder his owne seale, and the seales of foure suitors of that Court. Fitz. 18.6

*Admeasurement
ment do
dower.*

In a writ of Admeasurement of dower, the Sherif returneth that the wife hath more than hee ought to have, by 44.E.3.11.
Br. Rel. 119.
fortie

foſtie s. p annum, and this was holden to bee no good re-
turne; for he ought to retorne two parts by it ſelfe, and the
third part by it ſelfe, and theire yearely values, and to leaue to
the Court to adudge of the value.



Retorn' de Sum' de Aſſiſe.

Aſſiſe.

Pleg' de proſequend' { Iohan' Doo.
Ric. Roo.

VI. Plo. 415.

Infranominatus, W. L. nihil habet in balliva mea per quod
attach. poteſt, nec eſt inventus in eadem.

Infranom. W. C. & I. H. nihil habent, nec eorum alter aliquid Aliter.
habet in balliva mea, per quod poſſunt, ſeu eorum alter poteſt
attacharij; Nec habent ballivum, neque ballivos, nec eorum al-
ter habet ballivum neque ballivos, nec ſunt inventi, nec eorum
alter inventus eſt in eadem balliva mea.

Aliter ubi eſt Attache.

Infranomiat. W. L. attach. eſt per vnam vaccam præcij. Aliter.
xxx. s.

Vide hic
Attachmēt.

Note that if the partie appeare not, his Com is forfeit
(to the King) and the Sheriffe ſhall bee answerable for the
value thereof.

Reſiduum executionis iſtius brevis patet in quodam pannel-
lo (or in quadam ſchedula) huic brevi annexa.

A. B. Miles vic'.

Nomina recog. Aſſiſe, novę diſſeiſinæ inter M. C. quęrentē
& T. C. tenent. A. B. C. D. E. F. & c. (ad numerum xxiiij.)

28. aſſ. 40.
Br. 68. 70.

Summon. Iurat. (ſive recog.) prædictorum { I. D.
R. F.

Manucaptor. ſum. recog. prædict. { I. H. } & { W. P. }
R. S. } I. Q.

Nota que les recognitors dei aſſiſe, ſont les xij. homes que ſont impan- Recog. quid.
nell ſur le aſſiſe.

Vi. Plo. 73. b
& 415.
26. aſſ. 33.

Aſſiſe vers A. & le vicount retorne, que le bayly del A. attach. Ret. Attach.
eſt. & ne dit que A. non eſt inventus, vncor le retorne agard bon: mes & Ret. Nihil
ou le vicount retorne que le defend, nihil habet, & c. il dira pluis, quod difference.

P

non

Retorna Brevium.

non habet ballivos, nec ballivum, nec est inventus in eadem Sec.
26. ass. p. 33. Br. Rotorū brevium 68.

Affise, le vicount retourne le bailif del defendant attache per pledges,
& ne retourne que le defendant non est inventus, & par ceo que le vic
per son retourne suppose que le bailife vst estre attache, ideo le retourne a-
gard bon, car in cea est include que le party nētraue : et ideo *videt* hic
que attachement ne ferra per pledges, vide 28. Ass. p. 45. Br. Rotorū
70. vide plus apres tit. attachement.

Affise vers E. Venor, le br'e fuit retourne sic, pledges E.V. infrano-
minat. A.B. & C.D. ou le retourne ferra E.V. infranominat. attach.
est per pleg. A.B. & C.D. (et non vt supra) 3. ou 4. *presidents fuer'*
monstres que le primer retourne fuit bien ; mes 40. *presidents fuer'* m'e
al contraire, & per l'auter voy, et ideo optima opinio fuit, que le retourne
nest bon, par ceo que cest parol attach. faulx ; car la est nul parol in la re-
tourne que proue le brieve servie per ascun attachement fait del defendant
5. E4. Br. Ret. 93.

Aliter.

Pleg' de prosequend'. I. D. & R. R.
Infrascript' I. S. & R. B. attach. sunt, & quilibet eorum Attach.
est p Pleg. I. D. R. R.

Residuū executionis istius brevis patet in pannello huic bre-
vi consut'.

Pannell.

Affise Nov. diff. inter M. C. quær. (seu pteent') & T. C. tenent'
(seu defend') in placito, &c.

A. B. C. D. E. F. & c. ad numerum, xxiiij.

Nomina Recog. I. P. & T. W.

Summon' (Iuratorum prædict' & eorum cujuslibet) I. D. &
T. B. (vel plusors.)

Manucaptor' sum' prædict' & eorum cujuslibet, I. S. & I. D.

Aliter.

Executio istius brevis patet in quodam pannello huic brevi
annex'.

Nomina recognitor' in Affiss. nov. diff. inter A. B. quer. & I. M.
deff. I. D. I. S. E. F. & c. ad numerum xxiiij.

Quilibet recognitor' prædict' per se seperatim attachiat' est p
pleg. I. D. & R. R.

Exitus eorum cujuslibet. v. s.

Nomina recog' de novo apposit' juxta formam Statuti. A. S.
& c. ad numerum x.

Quilibet recog' prædict' de nova apposita attachiat' est sepe-
ratim per pleg. I. D. R. R.

Retorn

Retorna Brevium.

80

Retorn' de summons in Attaint.

Attaint.

Pleg' de prof. { *Iohan' Den'.*
 { *Richard' Fen'.*

Sum' infranominat' { *I. N.*
 { *Iohan' S.*
 { *Richard' G.*

Resid' executionis istius brevis patet in quodam pannello huic brevi annex'.

A. B. Ar. Vic.

Nomina Vigint' & quatuor milit'.

Le pannel.

Richardus M. de N. Ar'. } ad Numerum xxiiij.
T. B. de A. Ar' &c. ——— }

Sum' Iur' prædict' *H. H. S. S.*

Nomina Iur' primæ Inquisitionis in brevi huic pannello annex. *Le petit Iury*
spec'.

E. M. Gen.

H. E. Gen. &c.

Pleg. prædict' Iur' primæ } *Thomas Pitt.*
Inquisitionis. ————— } *Gulielm. Fitt.*

Pleg. de prof. { *Io. D.*
 { *Ri. R.*

Aliter.

Sum' infranominat. { *R. F.*
 { *I. D.*
 { *Ri. F.*

Manuapt. sum. prædict. & ytriusque eorum: *N. P. I. L.*
I. D. Ri. R.

Resid' execution' istius brevis patet in quodam pannello huic brevi annex'.

Nomina xxiiij milit' inter *R. S.* quer' & *R. F.* defend'.

A. B. C. D. E. F. ad numerum xxiiij.

Sum' Iur' prædict' & eorum cujusslibet, *I. D. R. F.*

Manuapt' sum' prædict' & eorum vtriusque, *I. P. R. C.*
F. D. E. G.

Nomina Iur' primæ Inquisitionis vnde in brevi huic scedule annexo fit mentio, *I. B. D. C.* ad numerum xij.

Sum' Iuratorum primæ inquisitionis & eorum cujusslibet.
I. D. R. R.

Retorna Brevium.

Manuapt' summonit' prædictorum, & vtriusque eorum. *I.L.*
H.P. R.S. T.V.

In an attaint the Sherife cannot retorne that the Defen-
dant is dead, for there are no wordes in the Writ to warne
the Defendant.

In an attaint the Sheriffe returned that hee had summoned the Jurie, as in an Affise, and for that no mainprise of the Summoners and Pledges was indorsed, &c. There-
fore a Quinmon, sicut alias, was awarded.

In an attaint, the writ is, diligentur inquir' qui fuer' Iu- 48.E.3.15.
ratores primæ Inquisitionis, and therefore there if the She- Br.115.
rife shall happen to retorne eleven of the first Jurie, and an-
other which was none of them, yet hee shall not bee amer-
ced, for he may mistake some in his inquirie of them: but in
such case at the surmise of the partie, Procelle shall goe out
against the twelfth, quod nota.

Attachment.

Attachment

Pleg' infranom I. D. $\begin{cases} P. R. \\ I. W. \end{cases}$

1. *D. infranominatus* Attach' est per vnam patellam præcij
x.d. vel per vnam vaccam præcij xxx.s.

Infranoñ, I. D. nihil habet in balliva mea per quod attachi-
ari potest.

Attachment sur Appel.

*Plegij de pro-
sequend.*

I. F. quæ fuit vxor *D. F.* infranom non inuenit mihi pleg' de proseq': Ideo ad executionem istius brevis nihil per me actum est.

Note that in euerie writ, which hath therein this clause expressed (sc. si A. fecerit te securum de clamore suo proseq.) the sherife may delay the plaintife by making this returne following, Infranoninatus A. B. non invenit mihi pleg' de prosequendo istud breve, Ideo ad executionem ejusdem nihil per me actum est.

Note also that the Sherife is not to returne the names of any as pledges, except they consent and agree thereto: Stat. 27. E. 1. cap. 2. and if hee doe hee shall bee grievously punished.

Also note that the King, nor Queene (in regard of their Co. 3. 61.
Dignitie and prerogative;) neither infants shall find any Fitz. 195. b.
pledges, de prosequendo, &c.

also

Retorna Brevium.

81

Also in a Quid juris clamat, Scire fac. or per que servitia, the
plaintiffe shall find no pledges, Co. 8. 16.

Retorne de Capias, Alias, & Pluries.

Alit.

Alit.

† Quere
how it can
stand with
their oath
not to serue
it, or not to
indeavour it,
to their best
power &c.

Infranominatus A.B. non est inventus in balliva mea.

Infranominati A.B. & C.D. nec eorum alter, inventus est in balliva mea.

*Capias in de-
bitis.*

If there be three or more, then thus: Infranominatus A.B.
et ceteri defend' infranominati non sunt inventi in balliva mea.

**These writs may bee returned in divers manners, as
followeth; First if the sberife will † not, or cannot serue
or execute the writ, then thus,** A.B. infrascr non est inventus
in balliva mea post receptionem istius brevis, vel, post advent.
hujus brevis.

And if the partie be taken then thus.

Virtute istius brevis cepi I.W. infrascriptum cujus corpus
coram Iustic' infrascript' ad diem & locum interius content. ha-
beo parat. prout breve istud exigit et requir' &c.

Aliter.

Infrascript. I.W. captus est per corpus suum, cujus corpus ad
diem &c. habeo paratū prout interius mihi præcipit' vel secund'
exigent' huius brevis

Alit.

Virtute istius brevis mihi directi capi corpus infranominati
I.S. cujus quidem corpus coram Iusticiā infrascript. ad diem et
locum infraccontent. parat' habeo prout interius mihi præcept.
fuit; vel prout istud breve in se exigit & requirit.

Alit'

Infrascript. I.S. captus est per corpus suum cujus corpus ad
diem et locum infraccontent. paratum habeo prout &c.

Aliter ball'
libert'.

R.S. infranominatus non est inventus in balliva mea, & quoad
capiend' I.F. infranominat. mandavi R.S. ballivo libertat. de S.
qui plenum return habet omnium brevium & execut. eorund'
cui executio istius brevis totaliter pertinet faciend', extra quā
libertat. nulla executio istius brevis inde per me fieri potest,
qui quidem ballivus mihi sic respondet, quod cepit corpus pd'
I.F. cujus corpus pdict. coram Iusticiā domini regis infrascrīp
ad diem & locum infraccontent. paratū habebit; vel sic, qui qui-
dem ballivus null' mihi dedit responsum.

I.D. infranominat. fugit ad libertat. I.E. Armig. & continuè
ibidem morat, Ideo vt ipsum capere non possum.

Retorna Brevium.

Sanctuariam Ante adventum istius brevis mihi directi, *I. S.* infranominat' intravit Sanctuariam sancti Petri Westm' in com' Midd', & in eadem adhuc moratur per quod corpus prædict' *I. S.* coram Iustic' infra script' ad diem & locum interius specificat' habere non possum, prout &c.

Aliter. Virtute, &c. capi corpus *A. B.* infranominati & ipsum ad gaolam Dñi Regis castri sui de *C.* commiss'. ibidem salvo custodiend' &c. Qui postea prætextu cujusdam alterius brevis dicti Domini Regis mihi directi, & huic brevi annex' à prifona illa deliberari feci.

Alio. Virtute, &c. capi corpus. *A. B.* infranom', &c. Et ipsum ad gaolam, &c.

Posteaq; viz. tali die & anno prætextu cujusdam alterius brevis dicti domini Regis mihi directi, cujus transcript' vobis mitto huic brevi annex' prædictum *A. B.* à prifona illa deliberari feci; Et ideo corpus prædict' *A. B.* coram Iustic' infra script' ad diem & locum infra content' habere non possum, prout interius mihi præcipitur.

Lat' Virtute, &c. capi corpus *I. C.* infranominat' cujus corpus coram Dño Rege vbicunque tunc fuerit in Anglia ad diem & locum infra content' parat' habeo, prout interius mihi præcipitur.

Et si le defendant que est issint prise, soit malade en prison: On si le vicount ne vou faire ascuns expens. deu costag' pur luy amesner al Westm' devant les Iustic', selonque le purport del brieffe, tunc sic;

Languidus. Virtute istius brevis *A. B.* infrascript' captus est per corpus suum, & in tali prifona siue gaola adeo languidus detentus, quod corpus ejus ad diem & locum interius content' habere non possum absque mortis periculo.

Aliter. Virtute istius brevis mihi directi capi corpus infranominati, *I. S.* qui quidem *I.* est in prifona Dñi Regis de *C.* adeo languidus, quod ob metum mortis ipsum coram Iustic' infra scriptis ad diem & locum infra content' habere non possum prout interius mihi præcipitur.

Aliter: Qui quidem *I.* tantis vexat' infirmitatibus, quod ipsum sine magno mortis periculo propter corporis sui debilitatem coram Iustic' infra scriptis, ad diem & locum infra content' habere non possum prout interius, &c.

Aliter pro feloniam. *R. D.* infranominat' captus fuit per *I. C.* constabularium ville de *D.* apud Tin' com' *D.* pro suspectione felon', & ea de causa in gaola prædict' sub custodia mei detentus fuit, & in eadem gaola adeo languidus est, quod nullo modo laborare siue curari potest: Vel sic, cujus corpus paratum habeo coram vobis ad diem, &c. infra content', ad faciend' quod istud breve in se exigit & requirit.

Aliter.

Virtute

Virtute istius brevis vobis certifico quod postquam istud bre *Superfed. sur*
mihi liberat' fuit ad capiend' *R.T.* & alios defendentes in isto *Capias.*
brevis specificat' idem *R.* & alij infranominati protulerunt mihi
breve domini regis de superfed' quod huic brevi est consut' vir-
tute cujus superfed' omnino.

Virtute istius brevis mihi directi Capi corpus infranomina- *Superfed. post*
ti *B.C.* qui postea protulit mihi breve domini regis de superfed. *capi corpus.*
mihi directi, & huic brevi consut' ; Ideo corpus suum coram Iu-
stic' infra scilicet ad diem & locum infra content' habere non possum
prout interius mihi præcipitur.

And yet these writs are seldome or neuer vlsed to be re-
turned by sherifes ; for attornies doe vse to returne them
themselues, but that must be done with the leaue and suffe-
rance or consent of the sherifes, otherwise the attornies
cannot iustifie the setting of the sherifs name to their writs.

8.H.4.21.
Br.34.

Upon a Capias the sherife returneth quod breve adeo tar- *Tarde.*
de sibi venit, quod illud exequi non potuit propter brevitatem
temporis, and it was holden to be a good returne.

Br.125.

Upon a Capias the sherife returneth that the partie is *Mortuus.*
dead, quære if this be a good returne.

7.H.4.11.
Br.107.

Upon a Capias the sherife returneth quod cepi corpus, and
yet hath not the bodie in court at the day of the returne he
shall be amerced : and if it were vpon a Capias ad satisfaci-
endum, the plaintife might haue his action against the sherife
for the escape, for by such returne the sherife hath concluded
himselfe.

Br.100.102.

Upon the Capias the sherife returneth cepi corpus, & quod *Languidus.*
est languidus in prifona, this is a good return, if it be true that
the partie is sicke indeed ; and yet vpon such a returne quod
languidus est in prifona, a *Duces tecum* may be awarded to the
sherife to bring in the prisoner, or els the def. if he will ap-
peare shall be receiued so to do.

11.H.6.
Br.123.

The sherife vpon a Capias returned mandavi ballivo, &
quod ipse cepit corpus, sed illud hic habere non potest quia lan-
guidus est &c. And the court being informed that he was not
sicke, a writ was directed to the bailife to returne the bodie,
and to appeare ; and vpon examination it was found that
the partie was not sicke, whereupon the bailife was fined,
and committed to the fleete.

Retorna Brevium.

Retorn' de Capias ad satisfac'.

*Capias ad
satisfac'.*

Virtute istius brevis mihi directi capi corpus infranominat' *A.B.* cujus quidem corpus, coram Iustic' infra-script' (vel coram domino rege) ad diem et locum infracontent' parat' habeo ad satisfaciend' infranominat' *C.D.* de debito et dampnis infra-specificat' prout interius mihi præcipitur.

Aliter.

Virtute istius brevis mihi directi capi corpus infranominati *A.B.* cujus corpus ad diem et locum infracontenta paratum habeo. *Plb. 441.*

A.B. Armig' Vic'.

But let the sherife take heed, if herein he returne capi corpus, that he hath the bodie in court at the day, otherwise he is chargeable for the whole debt by reason it is an escape &c. See hic antea.

*Capias ut
lagat'.*

Virtute &c. capi corpus *A.B.* infranominat' cujus corpus coram Iustic' infra-script' ad diem & locum infracontent' parat' habeo prout interius mihi præcipitur; residuum vero exec' istius brevis patet in quadam inquisitione huic brevi annex'.

Multis modis potest dici captus et detentus, scz. pro debito x. l. versus ipsum recuperatum in tali curia.

Vel captus est per præceptum dñi regis.

Vel captus est super recog' fact' in Cancellar'.

Vel captus est super appell' pro morte hominis.

Vel de roberia &c.

Rescons.

Infrascriptus *R.V.* captus fuit apud D. decimo die Maij anno infra-scripto, per *T.P.* ballivum domini regis, et mei, virtute cuiusdam warranti, prætextu hujus brevis per me facti, et sibi direct': Et super hoc prædict' *R.V.* cum alijs ignotis vi et armis, viz. baculis &c. in dictum ballivum insultum fecerunt, et seipsum a custodia prædict' ballivi rescuss. et nunquam postea eundem *R.V.* in balliva mea invenire potui.

Aliter:

Executio istius brevis patet in quadam scedula huic brevi annex'.

Scedula.

Virtute brevis domini regis mihi directi, et huic scedula annex', feci quoddam warrant' meum cuidam *I. M.* ballivo meo itinerant', ad capiend' et arrestand' *E.G.* in dicto brevi nominat', sec'm exigen' ejusd' brevis, Qui quidē ball' meus virtut' warrant' mei præd' nono die I. anno regni dñi *Iacobi* regis infra-script' xx. apud D. in com' pd' cepit et arrest' corpus pd' *E.G.* Et ad tunc

adtunc & ibidem ipsa *E. G.* in custodia sua fuit, super quo *F. G.* de *D.* prædict' in comitatu præd. genē, & *T. M.* de eisdem villa & com' genē, adtunc & ibidem vi & armis &c. in præd' ballivum meum insultum fecerunt, & ipsum ball' meum adtunc & ibidem contra legem & consuetud' regni dicti domini regis Angliæ, & contra voluntat' ipsius ballivi mei imprisonaverūt, & ipsum ballivum meum in prifona ibidem per spacium vnus horę adtunc detinuerūt, & viginti denarios in pecunijs numeratis, de bonis, cattallis, & denar' ipsius ballivi mei adtunc & ibidem præd' *T. M.* cepit, ac præf. *E. vi* & armis præd. adtunc & ibidem a custodia dicti ballivi mei cepēr & recussef: Necnon eadem *E.* seipsam adtunc & ibidem a custodia ejusdem ballivi mei rescussit contra voluntat' dicti ballivi mei, & contra pacem dicti dñi regis nunc &c. Et postea eadem *E.* non est inventa in ball' mea.

Aliter.

Virtute istius brevis mihi directi feci quoddam warrant' cui- *Refcom.* dam *R. P.* ballivo meo hac vice itineranti, ad capiend' & arrestand' infranom' *T. L.* secundum exigentiam istius brevis, qui quidem *R. P.* virtute warrant' prædict', postea scilicet secundo die Maijanno regni domini regis infrascript' vicefimo, apud *B.* in comitatu prædicto cepit corpus infranom' *T. L.* de *B.* præd. in dicto comitatu Canteb', Qui quidem *T.* die, anno, & loco supra dict', vi & armis in præf. *R. P.* ball' meum prædict' insult' fecit, & ipsum verberavit, vulneravit, & maletractavit, Ita quod de vita ejus desperabatur. Et idem *T.* adtunc & ibidem a custodia p'd ballivi mei, & contra voluntatem suam recessit, escapiavit, & rescussum fecit contra pacem dicti dñi regis nunc &c. Et postea idē *T. L.* non est inventus in ball' mea.

Aliter.

Virtute istius brevis feci quoddam warrant' meum *W. H.* ballivo hundred' de *H.* qui mihi sic responder, quod vbi ipse virtute warrant' præd' decimo die *S.* anno regni dñi regis infrascript' vicefimo apud *C.* cepit quandam *I. S.* & ipsum vsq; in castrum dñi regis de *C.* ducere voluisset, ibidem salvo custodiend', illuc vener' quid' *I. T.* & *R. S.* cum pluribus alijs ignot' vi & armis, arriat' modo guerrino, & a custodia dicti ballivi mei apud præd' *W.* p'd *I. S.* cepēr & abduxēr, Et sic ob metum mortis sui ipsam *I. S.* evadere permisit, Et ea de causa corpus *I. S.* præd' coram dño rege ad diem & locum infracontent', vbicunq; &c. habere non possum, prout interius mihi præcipitur, Et vltcrius vobis certifico, quod post præd. decimum diem &c. prædict' *I. S.* non fuit invent' in balliva mea.

Aliter de
Rescuss. &
Riot.

Virtute istius brevis mandavi *I. S.* ballivo meo libertat' de *D.* in com' præd' (qui habet plenum retorn' omnium brevium, præcept', & warrant' sibi inde direct') Qui quidem *I. S.* tali die et anno apud *P.* in comitatu præd' *T. S.* in brevi huic scedulæ annex' nominat',

Retorna Brevium.

nominat. et virtute ejusdē warrant. sibi direct. capit et arrestavit, et ipsum *T.S.* in custodia sua occasione prædict. adtunc et ibidem habuit et tenuit ac quidam *Iohan' C.* nuper de *S.* in comit. prædict. *L.* (aggregat. eis quam plur alijs malefactor ignotis, pacisq; dñi regis perturbator) ad numerum viginti personar modo guerrin arraiat. vi et armis viz. glad' pugionibus scut. et bacc. in ipsum ballivum meum adtunc et ibidem riorose insultum fecerunt et ipsum verberaver' vulneraver', et maletractaver' ita quod de vita ejus desperabat. et prædict. *I. C.* et alij &c. ipsum *T.S.* extra custod. dicti ballivi mei adtunc et ibid. ceperunt et rescussit, et ad sui juris ad largum ire permissit; ac idem *T.S.* seipsum extra custod. dicti ballivi adtunc et ibidem similiter rescussit contra pacem dicti dñi regis &c. Et postea idem *T.* non est inventus in balliva mea.

Aliter.

Ego *I. H.* miles vic' virtute istius brevis feci quoddam warrant' *I. B.* et *P. D.* ball' meis hac vice itinerantibus ad arrestad' et capiend' *R. F.* ad satisfaciend' infranominat' *W. P.* de debir. et damñ infraspacificat. prout interius mihi præcipit. virtute cujus warranti *I. B.* et *P. D.* ball' tali die et anno apud *H.* in com. prædict. arrestaver' prædict. *R. F.* prout per warrant. illud eis præcipiebatur, ac idem *R. F.* ac quidem *G. F.* de *G.* in com. prædict. cum alijs ignotis vi et armis videlicet gladijs, baculis &c. in prædictos *I. B.* et *P. D.* eisdem die et anno apud *H.* in com' prædict' insultum fecer' et ipsos maletractaver', et adtunc et ibidem rescussum fecer', virtute cujus rescuss. idem *R. F.* a custod' illa adtunc et ibidē contra arrestationem supradictam rescussit evasit et escapiauit qua propter præf. *R. F.* ad diem et locum infranomiñ habere non possum, et vltcrius vobis certifico, quod post eundem diem prædict. *R. F.* non fuit inventus in balliva mea.

Aliter.

Virtute istius brevis quoddam warrant' meum feci & direxi cuidam *T. C.* ballivo meo ad attachiand' infranomiñ *I. C.* prætextu cujus idem *T. C.* nono die I. añ regni domini regis infrascript' vicesimo apud *B.* in com' infrascr' capit & arrestavit p'd' *I. C.* cum coram me ducere volens & intendens, ad faciend' & recipiend', prout in isto brevi mihi præcipitur, Et postea videlicet dicto nono die I. añ vicesimo supradicto, prædictus *I. C.* apud *B.* præd' in com' præd' in præd. *T. C.* ballivum meum insultum fecit, Et ab eodem ballivo adtunc & ibidem fugit, evasit & rescussum fecit, Et postea eundem *I. C.* in balliva mea invenire non potui.

Note that if a rescous be made to the sherifes servant or officer, it shall bee returned as done unto the sherife himselfe; for the arrest is the act of the sherife himselfe, and there-

therefore the rescous to the seruant is a rescous to the sberife himselfe. Br. Retor. 66.

Vide plus hic postea tit' Retorne del habeas corpus.

Cessavit per bienium.

Virtute &c. Iustic' infra script' certifico quod die Maij *Cessavit per bienium.*
anno regni &c. Capi in manus domini regis 3. messuag'
&c. infra script' per visum A. B. C. D. E. F. & G. H. proborum
& legalium hominum de balliva mea, prout interius mihi præ-
cipitur.

*Retorna brevis ubi Clericus non habet
laicum feodum.*

Virtute istius brevis mihi directi Iustic' infra script' certifico, *Clericus non
quod infranominatus T. H. clericus est beneficiatus in Epif- habet laicum
copatu Londoni, nullum habens laicum feodum in balliva mea feodum.
ubi potest summoñ.*

A. B. Armig' Vic'.

Retorn de Distringas versus Clericum. Vide hic Retorn de *Distring.
Distring' fol. Clericum.*

Br. 134.

In a Scire facias against a Chapleine upon a recouerie in
a Quare impedit, the sberife ought not to returne quod Cleri-
cus est beneficiatus nullum habens laicum feodum &c. for this
is not to be returned, but where a Distring. or Capias goeth
out, which are a coercion: But in a Scire facias the sberife
hath nothing to do but to warne the partie. And yet if in a
Scire facias the sberife returnes, quod est Clericus beneficia-
tus, nullum habens laicum feodum &c. Et quod non est inven-
tus &c. this is a good returne, for then he cannot be sum-
moned, if he can neither be found, nor hath laie fee.

The sberife returneth that the Parson befoze the returne
of his writ had resigned his benefice &c. Et quod non habet
nec habuit bona neque catalla infra &c. it seemeth a good re-
turne. See 2. E. 4. fo. 1. Br. 94.

Como-

Retorna Brevium.

Comorans in alio Com'.

*Comorans
in al' com'.*

INfranominatus *E.S.* est vic' com' *E.* et est comorans in dicto comitatu *E.* et non est inventus in balliva mea.

A.B. Armig' Vic'.

Corpus cum causa.

*Corpus cum
causa.*

Upon a *Corpus cum causa*, it is a good returne that the partie is dead. 32.H.6.27. Br. 125.

See more hereof in the returne of Habeas corpus.

Covenant.

Retorna brevis orig' in conventione.

Pleg' de prof. $\left\{ \begin{array}{l} \text{Io. D.} \\ \text{Ri. R.} \end{array} \right.$

Sum' infranominat. $\left\{ \begin{array}{l} \text{R. F.} \\ \text{I. D.} \\ \text{Ri. F.} \end{array} \right.$

Dei.

Retorna brevis originl. in Debito.

Pleg' de prof. $\left\{ \begin{array}{l} \text{Iohan' Den'}. \\ \text{Richard' Fen'}. \end{array} \right.$

Sum' infranominat' $\left\{ \begin{array}{l} \text{I. N.} \\ \text{Iohan' S.} \\ \text{Richard' G.} \end{array} \right.$

A.B. Ar Vic.

And if the Defendant be insufficient, then thus:

Pleg' de prosequend. *I.S. R.M.*

Infranominat' *A.B. nihil habet in balliva mea per quod sum-*
mon potest.

Or thus.

Aliter.

Infranominati *A. B. & C. D.* (and if there be moze defendants than two, then you must name but one, & ceteri def. infranominati) nihil habent, nec eor' alter nihil habet in balliva mea per quod summoni possunt.

A. B. Armig. vic.

Br. 84.

In Debt it is no returne, that the defendant hath paid the debt, 2. H. 7.

Decies tantum.

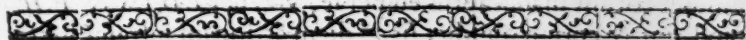
I Vstic' infrascr' certifico, quod infra nominatum *A. B.* ad diem & locum infra content' coram vobis parat' habeo, ad faciend' & recipiend' quod curia domini regis infra script' de eo consideraverit iuxta formā istius brevis. *Decies tantum*

Br. 89.

In a writ ad deliberand' &c. in Detinue, it seemeth to be no good returne that there are no such goods. *Detinue.*

22. H. 6. 41.

In Detinue where it is awarded that the plaintife shall recover the thing demanded, he shall have a Distring' ad deliberand' &c. and the sberife may thereupon returne issues, or nihil, as the trueth is. *Br. Charters de reir 34.*



Retorn' de Devastavit vers executors.

Virtute istius brevis mihi directi, cepi in manus meas diversa bona & catalla quæ fuerunt infranominat' *H. S.* tempore mortis suæ, in manibus infranominat' *R. O. & K.* uxoris ejus execut' testamen' præd. *H.* administrand' existens, ad valenc' 37. l. parcell' deb. infra script', quæ quidem bona & catalla remanent in custodia mea pro defectu emptorū, Et ulterius Iustic' infra scr' certifico quod præd' *R. O. & K.* diversa bona & catalla quæ fuer' præd' *H.* tempore mortis suæ ad valenc' resid' deb. & dampn' infraspacificat' vendiderunt, & devastaver', & denarios inde provenientes ad vsus suos proprios converter', Ita quod resid' deb. & dampn' infrasp'ec' de bonis & catallis ejusd' *H. S.* levare seu fieri facere non possum, Et ulterius Iustic' præd. certifico quod prædict.

Q

Retorna Brevium.

prædict. R.O. & K. vxorejus nulla habent bona seu catalla de bonis & catallis suis proprijs in balliva mea vnde resid' deb. & dampnū infraspēficar', aut aliquam inde parcelā fieri facere possum prout interius mihi p̄cipitur.

Disceit

Disceit.

In a writ of Disceit if the sherife returneth the one summoner to be dead, it is good, and yet the other summoner shall be examined &c. And if it be found that the sherife made no summons &c. the partie shall bee restored to his land. F.N.b. 91.d.

Distringas.

Dist'

Manuapt' infranom I. F. I.D. R.R.

Exit' 3.s. 4.d.

I.F. infranominat' nihil habet in balliva mea per quod, nec ubi potest distringi.

xl.d. xl.d.

Vers plusors.

T.D. A.R. &c. distri& sunt, & quilibet eorum districtus est, per terr' & catall' sua secund' formam hujus brevis, vnde exitus prout patet superius in eorum capitibus & manuapti sunt, & quilibet eorum manuaptus est per se, viz. per I.D.I.S. & P.H. quod sint, & eorum quilibet sit ad diem & locum infraſc' iuxta tenorem hujus brevis &c.

xl.d.

Vers exechi'.

A. quæ fuit vxor B.R. infraſcript' executrix testamenti p̄f. xl.d.

B.R. I.S. alius executor testamenti prædict. B. & T.S. tertius execut' testamenti præd. B. districti sunt, & eorum quilibet per se seperatim dist' est, iuxta formam huj' brevis vnde exit' prout patet superius in capitibus eorundem, Et eorum quilibet manuaptus est per se, viz. per quatuor manuaptos nomine A.B. C.D.E.F. & G.H. Et non sunt plures executores testamenti ejusdem B. nec hæredes ejus fuerunt in comitatu C. * prout aliquo modo ad p̄sens constare mihi potest.

Pleg. de proseq. I.D. R.R.

*Sur le 2. ou
3. distr'.*

A.B. infraſc' nihil habet in balliva mea ultra exitum prius per me forisfactum, per quod nec vbi distringi potest, prout mihi

*Quere de
cest retorne
hic fol.

mihī aliquo modo * constare potest ad presens.

W. D. Archidecanus R. nihil habet in balliva mea de laico feodo per quod, nec vbi distringi, pramunire, seu attachiari potest aliquo modo prout ad presens mihī constare potest. *Verf. Cler.*

Quoad distringendū infra script' A. B. essendi coram Iustic' infra script' ad diem & locum infra content', istud breve adeo tarde mihī deliberat' fuit, quod propter temporis brevitatem executionem inde facere non potui. *Tarda.*

Br. 84.

Note that in a Dist' per omnes terras suas, Ita quod habeas corpus ejus &c. the Sherife must retorne issues.

Retorne de Distring. Iurat'. See hic postea Retorn de Venire *Distr. Iur.* facias.

Dower.

Ad measurement de Dower. Vide hic antea tit. Ad measurement. *Dower.*

Retorne de summ. in Dote.

Pleg. de prosequend' { *I. Doo.*
R. Roo.

Sum infranoim { *I. H.*
I. W.
W. C.

Et ad ostium Ecclesiæ parochialis de P. vbi infranominat' A. B. super diem Dominicum, scilicet quarto die Julij, anno infra script' immediate post divinum servitium, nulla prædicatione ad tunc et ibidem existē, publice proclamavi feci secundum formam statuti, prout istud breve in se exigit & requirit.

A. B. armig' Vic'.

Retorne de Petit cape in Dower.

Virtute &c. tali die & anno capī in manus domini regis infra script' tertiam partem tenementorum infra spec' cum pertiū prout interius mihī præcipitur.

A. B. armig' Vic'.

Retorna Brevium.

Retorna brevis de visu in Dover.

Iustic' infraſcript', certifico quod virtute iſtius brevis mihi direct. habere feci infranom' *A.B.* viſum de tertia parte tene-mentorū infraſpec' in præſent' *N.C. R.D.W.B. & C.D.* quatuor milit' ex illis qui viſ. illi interfuerunt, Et ulterius certifico quod dixi quatuor milit' præd. quod ſint coram Iuſtic' infraſc' ad diem & locum infracontent' ad teſtificand' viſum illum pro-ut per breve præd. mihi præcipitur.

A.B. Armig' Vic'.

Retorna brevis de ſeiſina in Dote.

Executio iſtius brevis patet in quadam ſcedula huic brevi annex'.

*Seiſina in
Dover.*

Iuſtic' domini regis certifico quod virtute brevis dñi regis mihi directi & huic ſcedulæ annex' decimo die *A.* anno &c. habere feci, *P.B.* vid. in brevi præd. nominat' plenā ſeiſinam de tertia parte manerij de *B.* cum pertineñ in eodē brevi ſpec', viz. de una aula & coquina, de duob' ſhopijs in tenu' dicti *I.* cū libe' ingreſſ. & regreſſ. ad & ab eaſdem, nec non ſuperiori parte domus manſionat' in tenura *E.C.* ab introitu verſus Australi, ac de vno clauſo ſeperali voc' *H.* contineñ per eſtimac' quinque ac' ac, ac de quatuor ac' paſturæ jaceñ in borea' ſine, vnus clauſi voc' *B.* & de vna ac' paſturæ voc' *C.* in brevi præd. ſpec', tenend. p'f. *P.B.* in ſeperali per metas & bondas, nomine totius dotis ipſius *P.* ipſam *P.* contingeñ de toto manerio in dicto brevi ſpec' put per breve p'dict. mihi præcipitur.

A.B. Armig' Vic'.

Aliter.

Executio iſtius brevis patet in quadam ſcedula huic brevi annex'.

Virtute &c. & huic ſcedulæ annex' tali die & anno habere feci *I.B.* vid. in præd. b'ri nomiñ plenariam ſeiſinam de tertia pte manerij de *B.* cum pertin' in eodē brevi ſpecificat', viz. &c. (*de reſe les particulars* ut in brevi) tenend. p'f. *I.B.* in ſepera' per metas & bondas nomine totius dotis ipſius *I.* ipſam *I.* contingeñ de toto manerio in dicto brevi ſpecific' put per breve p'd. mihi præcipitur.

Retorn'

*Retorn brevis ad inquirend' de dampnis in Dote, ubi
tenens obijt seifitus.*

Executio istius brevis patet in quadam Inquisic' huic brevi
annex'.

*Inquir. de
dampnis in
dote.
Cantabr.*

Inquisitio indentata capta apud Canteb' in com' præd. duo-
decimo die Iañ, anno &c. eoram me A.B. armig. vicecom. com.
præd. virtute brevis domini regis mihi directi, et huic inquisi-
tion' annex' per sacramentum C.D.E.F.G.H. &c. (ad numerum
duodecim ad minus) qui dicunt super sacrament. suum quod in-
franominat. W.K. quinto die Ianuar, anno &c. apud K. in com. p'd
obiit seifitus in dominico suo ut de feodo, de et in tētis infra-
spec', Et quod tenement' præd. sunt clari añ valor' in omnibus
exit. vlti' repris. xx.s. Et quod sex anni et tria quarteria vnus
anni delabuntur, à tempore mortis præd. W.K. Et quod infra-
nom. I.D. sustinuit dampna occasione dotis suæ infratpec' ad va-
lenc' x.l. In cuius rei testimon' tam ego præf. vic' quam Iur' præ-
dict. huic inquisic' sigill' nostra alternatim apposuimus, die, añ,
& loco supradict. &c.

A.B. armig' Vic'.

7.H.4.
Br. 106

A writ of Right, the writ went to the sherife to returne
foure knights, to chuse the grand Assise, returnable such a
day, and the sherife returned that there were no knights
but burgeses: whereupon another writ went out &c. & the
foure knights were demaunded, who came to the barre
with their swords girt about them &c. And so it seemeth
(by the opinion of Master Brooke) that the sherife may re-
turne them knights, although they be no knights. See the
like hic antea fol.

*Briefe de
arbit.*

39.E.3.2.
Br. 121.

In a writ of right the sherife returned two knights, and
two sericants to chuse the grand Assise; and it was holden
a good returne of two knights and two sericants, for that
there were no moe knights within the same county: but to
returne two knights and two sericants for that there were
no moe knights within the same countie which were not of
kindred to the parties, was holden to be an insufficient re-
turne, for that should haue come in by the challenge of the
parties.

Eiectione firma.

Infranominatus A.B. attach. est per centum oves, præcij vi-
ginti librarum.

*Eiectione
firma.*

Q 3

Infra-

Retorna Brevium.

Infranominati *C.D.* et *E.F.* nihil habent in balliva mea per q̄
attachiari possunt.

Eligend' Coronator'.

*Eligend'
Coronator'.*

AD com' meum tent' (tali die & anno) in pleno com' prædict',
virtute istius brevis, de assensu ejusdem com' loco *P.H.* in-
franominat' (qui diem clausit extremum) elegi Coronat' viz. *I.*
W. qui (prout moris est) sacrum præstitit corpora, quod ipse ea
faciet, et conservaverit quæ ad offic' coronæ in com' p̄d' pertineñ
faciend', prout interius mihi p̄cipitur &c.

Eligend' Milit' Parliament'.

*Eligend' mi-
lit. parla-
ment'.*

ELegi feci duos milites gladijs cinctos majus idoneos, et dis-
cretos de com' meo præd', viz. *W.F.* et *I.S.* qui quidem mili-
tes plenam et sufficient' potestatem pro com' præd' habeant, ad
faciend' & consentiend' hijs quæ ad diem et locum infracont' de
communi consilio regiñ reg. Angl' ordinari contiger', & prædict'
W.F. & *I.S.* manucapt' sunt per *I.P.W.B.* *I.D.* et *R.N.* ad essend'
ad parliament' dom' regis apud Westm. ad diem infracontent',
ad faciend' prout istud breve in se exigit et requirit. Feci
etiam præceptum virtute hujus brevis *I.P.* et *W.S.* ball' libertat'
villæ de Canteb', quod burgo de C. elegi fecerent duos burgen-
ses de discretior' et majus sufficient', quod sint ad parliamentum
dicti domini regis ad diem infracontent', ad faciend' et consenti-
end' ut præd' est: qui quidem ballivi sic mihi respondent quod
elegi fecerunt de præd. burgo de C. duos burgeneses discretos,
et magis sufficient' ad essend. ad parliament' prædict'. viz. *S.W.*
& *R.W.*

Eligend. Burg. Parliament'.

*Eligend.
Burg. Parle-
ment'.*

Virtute &c. ad proxim. com. meum post receptionem ejusdē
tent. apud C. tali die & anñ in pleno comitat. illo proclām'
feci omnia in isto brevi content. secundum formam et effectum
hujus brevis prout &c. Resid. vero executionis istius brevis
patet in quibusdam Indentura huic brevi consut'.

Hęc

Hæc Indentura facta tali die & anno inter *A.B. vic. com. C.* *Indenture.*
ex vna parte & *I.D. & C.B. &c.* ex altera parte Testat. quod se-
cundū formam brevis, huic Indentur. conf. (fact. proclamat. in
pleno com. tent. apud C. tali die & anno prædict.) *I.D. & C.B. &c.*
qui proclamac. prædict. in pleno com. prædict. interfuer. secun-
dum formam statutorum in brevi prædict. specific. & exigen.
brevis illius, elig. *A.D. & I.A.* essend. Burgens. ciuitatis prædict.
ad parliamentum in eodem brevi specificat. qui plenam & suffi-
cientem potestatem pro se & com. ciuitat. prædict. habent ad
faciend. & consentiend. prout breue illud in se exigit & requi-
rit. In cuius rei testimonium partes prædict. hijs Indent. sigilla
sua alternat. &c.

Eligend' virid. forestæ.

Domino Regi certifico quod infra nominatus *I.H.* ante ad- *Eligend' vi-*
vent. istius brevis mihi directi mortuus fuit, quodque ego *rid. forestæ.*
post receptionem istius brevis mihi directi, in pleno com. meo
tent. apud C. in com. meo 29. die Maij anno infrascript. ex as-
sensu ejusdem com. loco prædict. I. elegi feci quendam. *N.S. Ar-*
mig. viridiarium forestæ de B. infrascript. ad faciend prout breue
istud in se exigit & requirit.

Executio istius brevis patet in quadam inquisitione huic bre-
vi annexa.

Inquisitio indentat' capta apud C. in comit' Cantebrieg. tali *Enquirie de*
die et anno, coram *A.B. Armig. vic' ejusdem com. virtute cu-* *dampnis.*
jusdam brevis dñi regis eidem vic. direct. et huic inquisitioni
confut. per sacrament. *R.S.M.G. &c.* (ad numerum 12. Iuratoꝝ)
qui dicunt super sacramentū suum quod *A.P.* in brevi huic inqui-
sitioni confut. nominat. sustinuit dampna occasione transgress.
per *I.H.* in prædicto brevi nominat. prout in eodem brevi fit
mentio ad xl.s. Et promissis et custagijs ipsius *A.P.* per ipsum
circa sectam suam in hac parte appositis ad xl.s. In cuius rei &c.

Retorne de Elegit.

Executio istius brevis patet in quadam inquisitione huic brevi *Elegit.*
annexa.

A.B. Armig. vic.

Inqui-

Retorna Brevium.

Inquisitio Indentat' capta apud *L.* in com' prædict' decimo die Iunii anno, &c. coram me *A. B. Armig' vic'* com' prædict', virtute brevis Dñi Regis mihi direct' & huic inquisitioni annex', per sacrament' *T. B. &c.* (& sic xij. plur' ad mias) qui dicunt super sacrament' suum, quod *B. C.* in brevi prædict. nominat. tali die et anno, &c. fuit seisit. in dominico suo vt de fœdo, de & in vno messuag' vocat. &c. cum pertiñ iacent', & existent' in *L.* in com' prædict. modo in occupatione *A. I.* vid'. clari annui valoris in omnibus exit. vltra reprim. xl. s. Ac etiam de & in vno gardino cum pertinen. vocat. &c. in *L.* prædict. clari annui valoris in omnibus exit. vltra reprim. xx. s. Ac etiam de & in vno alio messuagio cum pertinen in *L.* p'd scituat. jacent' & existent' prope &c. nuper terf' cuiusdam *R. A.* defuncti modo in occupatione *B. C.* vel assign' suorum, simul cum omnibus gardinis & edificijs eidem messuagio spectant. siue pertiñ, clari annui valoris in omnibus exitibus vltra reprim. v. li. Ac etiam de & in vno alio messuagio vocat. &c. in *L.* prædict' in tenura præd' *B. C.* clari annui valoris in omnibus exitibus vltra reprim. decē solid'. Quæ omnia et singula, præd' *B. C.* nuper perquisiuit sibi et hæred' suis de quibusdam *N. S.* et *Al.* vxore ejus (vnius filiarum et cohæred. præd' *R. G.*) Quod quidem messuag. in tenura prædict. *C. D.* vna cum gardino eidem. messuag. jacent' et spect. cum omnibus et singulis suis pertinen' pro medietate omnium terf' et tenementor' præd' ego præfat. vic' deliberari feci *R. S.* in brevi prædict. nominat. tenend. sibi et assignat. suis juxta formam statuti inde provis. vt liber. test. suum quousque debitum suum. *C. I.* vna cum xv. s. pro dampnis suis in brevi prædic. mentionat', plenar. inde levaverit, prout breve prædic. in se exigit et requirit: Et vterius Iurat. prædic. super sacramentum suum prædict. dicunt quod prædict. *B. C.* nulla alia siue plura habet seu die recog. deb. prædict. habuit, bona aut catalla, terras siue tenita in com. prædict. ad eorum noticiam. In cuius rei testimonium, tam ego præfat. vic. quam Iurat. prædict. huic Inquisitioni sigilla nostra alternatim apposuimus die, anno & loco, supradict. &c.

A. B. Armig. vic.

Aliter.

Virtute istius brevis ego *A. B. vic. com.* infra script. (tali die et anno) liberavi *F. B.* medietatem maneriorum in inquisitione huic brevi consut. specificat. cum pertinet. per exten' in dicta Inquisitione fact', tenend. sibi & assign. suis, vt liberum tenementum suum quousq; idem *I. B.* debitū et damp. sua infra script. levaverit, prout interius mihi præcipitur.

Virtute

Virtute istius brevis (tali die & anno) liberari feci infranominat. A.B. medietat' maner' de S. cum pertinentijs, extent' ad annum valorem quatuor librarum sterlingorum in omnibus exitibus ultra reprimis. p 12. Iur' in Inquisitione huic brevi consut' nominat', de quo quidem manerio cum pertinen' B. G. & E. vxor ejus fuerunt inde seifiti vt in iure ipsius E. in foedo vt de libero tenemento, die captionis Inquisitionis prædict', prout in eadem compertum est, Habend' et tenend' eandem medietatem manerij prædict' cum pertinen', sic extentam, prædict' A. B. et assign' suis vt liberum tenement' suum, quousq; infraspec' 4. libras inde levaverit juxta formam istius brevis, Resid' verò execut' istius brevis patet in quadam Inquis. huic brevi consut. &c.

Aliter.

*Deliberat post extentam factam super obligat
statuti stapule.*

Virtute, &c. liberavi infranominat' B. S. maneria, terras, et tenementa infra. habend' sibi et assign' suis, vt liberum tenementum suum quousque sibi de debito infrascripto, vna cum dampnis, misis, et expensis suis plenarie fuerit satisfact', prout, &c.

Fitz. 266. c.

**Upon an Elegit the Sherife returneth, that the Conu-
sor hath made a feoffment of diuers parcells of his lands
to diuers tenants, &c. and of all the residue that he hath in-
feoffed the king, the kings lands are to bee discharged, &c.
But vpon a Scire facias to warne the other tenants to come
at a certayne day to shew cause why their lands shall not
bee put in execution, if the Sherife returneth them, Gar-
nie, if they shew not cause to barre the execution, their lands
shall bee extended, &c.**

Retorn de Extent sur Recog. ou Stat.

Virtute istius brevis mihi directi capi corpus infranominat. *Extent.*
W.W. cujus quidem corpus, ad diem et locum infra con-
tent. parat. habeo, prout interius mihi præcipitur.

Resid' execut. istius brevis patet in quadam inquisitione
huic brevi annex.

A.B. Armig. Vic'.

Inqui-

Retorna Brevium.

Inquisitio indent. capta apud C. in com. prædict. xij. die Ianuarij Anno &c. coram A. B. Armig. vic' com. præd. virtute brevis domini regis mihi direct. et huic inquisitioni annex. per sacrament. T. B. &c. (vt sup' :) Qui dicunt super sacrament. suū, quod W. W. in brevi præd. nominat. die recogn. debet. in eodē brevi spec' fuit seifitus in dominico suo vt de feodo, de et in manerio de A. in com. præd. clari annui valoris in omnibus exitibus vltra repris. C. li. Ac de et in manerio de C. in com. præd. clari annui valoris vltra repris. C. li. Et vltcrius Iurat. prædict. super sacrament. suum prædict. dic' quod prædict. W. W. die recogn. debet. prædict. seu vnquam postea, nulla habuit bona seu cattall', neque al' siue plu' ter' siue tenementa in com. prædict. ad eorum noticiam quod extend' appreciari aut in manus dicti domini regis capri aut seifiri possint: Quæ quidem maneria ter' et tenementa prædict. cum pertineñ ego præfat. vic' die captioñ huius inquisitionis capri in manus dicti dom' regis per extent. prædict. In cuius rei testimoniū tam ego præfat. vic' quam Iurat. prædict. huic inquisitioni sigilla nostra alternatim apposui-
mus, die, anno et loco supradict, &c.

A. B. Ar. vic'

Aliter.

Virtute, &c. domino regi in Cancellaria sua, ad diem & locum infracontent. vbicunq; tunc fuerit certifico, quod tali die & anno seifinam & possessionem de et in manerijs terris et tenementis infrasp'c' infranominat' W. C. liberaui secundum exigen' istius brevis, ac infranom. H. M. non est inventus in balliva mea.

Aliter.

I. M. infras. non est inventus in balliva mea, Ideo ipsum capere non possum ad præsens, Sed quoad extendend' & appreciand' omnia terras & catt' ipsius, I. M. juxta formam istius brevis, Execut. inde patet in quadam Inquisitione huic brevi consut. Quæ quidem ter' & cattall' in dicta inquisitione content', in manus domini regis seifiri feci.

Aliter infra libertat.

A. B. infranominat' non est inventus in balliva mea, Et ideo virtute huius brevis mihi direct. extendi & appreciari feci omnia terras et tenementa, bona et catalla p'd' A. in dicta balliva mea: Quæ quidem extent. huic breui est annex', ac etiam omnia terras & teñt. prædict. in eadem extent. specific', vna cum dampnis & custag. suis rationabilibus levavi, juxta formam statuti inde editi & provisi, & secundum formam huius brevis.

Quod

Quod distrinxit partem per frumentum, vel per alia cattalla, *Aliter.*
ad quod non invenit emptores, *see bon Retorne Fitz. 133. b.*

Retorna de Exigent.

Virtute istius brevis mihi directi, ad com meum tent' apud *Exigent.*
castru Canteb' in com Canteb' infrascript' die Lunę vide-
licet decimo die I. anno regni dñi regis infrascript' xix. infra-
nominat' I. C. & ceteri defend' infranominat', **(if there be aboue**
two) primo exacti fuer' & non comparuer', ad com meum ibi-
dem tent' die Lunę videlicet vicesimo die A. anno supra-
dict' predictus I. C. & ceteri defend' infranominat' secun-
do exact' fuer' & non comparuer'; Ad com meum ibidem
tent' die Lunę videlicet decimo die S. anno predict', præ-
dict'. I. C. & ceteri defend' infranominat' tertio exact' fuer'
& non comparuer': Ad com meum ibidem tent', videlicet
duodecimo die O. anno predict', predictus I. C. & ceteri
defend' infranominat' quarto exact' fuer' & non comparuer';
Et ad com meum ibidem tent' die Lunę videlicet tertio die
N. anno predict', predict' I. C. & ceteri defend' infranomi-
nat' quinto exact' fuer' & non comparuer'. Ideo predict' I. C.
& ceteri defend' infranominat' per Iudicium I. W. & W. Ri-
gen' Coron' dicti domini regis com predict', secundum legem
& consuet' regni dñi nostri regis Anglię vtlagat' sunt & quili-
bet eorum vtlagat' est.

Virtute istius brevis mihi direct', ad com meum tentum apud *Aliter*
C. in comitatu C. infrascripto, die Iovis vid. decimo die I.
anno regni domini regis infrascript. xix. I. C. & alij defenden-
tes infranominati primo exacti fuerunt & non comparuer':
Et ad com meum &c. (vt antea,) secundo exacti fuer. & non
comparuerunt, Et ad com meum tent. &c. (vt antea) tertio
exacti fuerunt, & non comparuerunt: Et ad com. meum tent.
&c. (vt antea) quarto exacti fuer. & non comparuerunt: Et ad
com. meum &c. (vt antea) quinto exacti fuerunt & non com-
paruer. Ideo predict'. I. C. & ceteri defendentes infranominat, p
Iudicium Coronatorum dicti dñi regis comitatus predicti, se-
cund. legem & consuet. regni Anglię, vtlagati sunt, & quili-
bet eorum vtlagatus est.

Retorn' de breve de Exigend' cum Superfed'.

Virtute &c. ad com. meum predict'. ibidem tentum die Iovis *Aliter cum*
viz. xx. die A. anno predict'. predictus I. C. quarto exact. *Superfed.*
fuit, et comparuit, et protulit mihi breve domini regis de super-
fed',

Retorna Brevium.

sed, et est huic brevi annex. per quod ad executionē istius brevis ulterius faciend. supersed. omnino, prout mihi in eodē brevi de supersed. præcipitur.

A.B.Armig.vic.

*Retorne de Exigent ubi vnus reddit
se, & alij non comparuer'.*

Virtute &c. Ad com. meum ibidem tentum die Iouis viz. x. die A. anno prædict. prædict. I. C. et cæteri defend' infranominat. quinto exacti fuer, ad quem diem prædict. I.C. comparuit et se reddidit prisona domini regis castri sui Canteb' : cuius quidem corpus coram Iustic. infra scilicet ad diem et locum infracontent. parat. habeo prout interius mihi præcipitur, sed cæteri defend. infranominat. non comparuer' Ideo &c. vt supra.

Languidus in prisona.

Ad com. meum &c. prædict. I.B. comparuit, et se reddidit prisonæ dñi regis castri sui C. infra com. prædict. et in eadē prisona modo remanet, languidus varijs infirmitatibus detent. Ita quod propter corporis sui debilitat. et mortis periculum carriari non potest, et ea de causa corpus præd. I. B. coram Iustic. infra script. ad diem et locum infracontent. ad presens haberi non possum juxta formam hujus brevis.

*Retorn' de Exigent ubi vnus reddit se, alter
proferi Supersed, tertius mortuus est &c.*

Virtute &c. ad com. meum ibidem tent. die Iouis viz. x. die A. anno prædict. præd. I.H.S.R.A.C.& D.P. quinto exact. fuer' & præd. S.R. se redd' prisonæ dñi regis castri sui Ca. in com. præd. cuius corpus coram Iusticiat' infra script. ad diem et locum infracontent. parat. habeo, ad faciend. id quod breve p'd in se exigit et requirit, Et p'd. D.P. comparuit et protulit mihi breve dñi regis de supersed. huic brevi annex. Ideo quoad eum ulterius procedere non potui : Et p'd I.H. mortuus est : Et p'd. A.C. waviat. est. Ideo per iudicium I.W. et W.R. Coron dom. regis com. præd. præd. I.H. vlagat. et præd. A.C. waviat. est.

A.B.Armig.Vic.

And

Retorna Brevium.

91

And yet vpon an Exigent, the Sherife returned that the partie was dead, and it was doubted whether it were a good returne : Br. 125.

Retorna de Allocat.

Allocat. illi quatuor com̄ ad quos infranominat. T. C. exact. fuit & non comparuit. Et vltorius virtute istius brevis ad com̄ meum tentum apud castrum Canteb. in com̄ C. infra script. die Iovis viz. Octavo die N. anno regni dñi regis infra script. Angliæ, &c. xix. prædict. T. quinto exact. fuit & non comparuit, Ideo per iudicium coronator, &c. (vt supra) vlagat. est.

And if it be a woman, then thus : Ideo secundum legem & consuetudinem, &c. prædict. A. R. waiviata est

Retorn' de Exigent inter duos Vic'.

Virtute istius brevis mihi directi ad com̄ meum tent. apud castrum Canteb. (in com. Canteb.) infra script. die Iovis viz. x. die A. anno regni domini regis Angliæ, &c. infra sc. xix. infranominat. R. K. primo exactus fuit & non comparuit : Istud breve sic superius indorsat' mihi deliberat' fuit, per I. C. Armig. nuper Vicecom. comitatus infra scr. proxim' prædecessorem meum in ejus exit. ab officio suo, vt superius in dorso hujus brevis. Et ad comitatum meum, &c.

Istud breve prout indorsatur, mihi deliberat. fuit per A. R. *Aliter.*
Ar. nuper Vic. com. infra scr. proxim' prædecessor meum in ejus exit. ab officio, Et ad com. meum tent. apud castrum C. prædict. in com. prædict. die Iovis viz. x. die D. anno prædict. prædictus R. K. secundo exact. fuit & non comparuit, &c. (vt supra.)
 Et si deficiunt Coron' ad com. ad reddend. iudicium, tunc Vic. retorn. brevia sua sic, viz. Et quod ob defect. I. W. & W. R. *Pro defectu Coronatorū.*
 coron. dñi regis comitat. prædict', vltorius procedere non potui.

And then vpon this returne, the Coroners will be fined for euerie writ, vnlesse they can make a good excuse.

A. B. Mil'. Vic'.

Istud breve sic superius indorsat. vnā cum breve dicti domini *Aliter cum*
 Regis de super sed sibi annex. mihi liberat. fuit per A. B. nuper *Super sed eas.*
 Vic. com. prædict. prox. prædecessor meum.

R

Virtute

Retorna Brevium.

*Pro defectu
Coronat.*

Virtute, &c. Et ad com meum tent' ibidem iij. die N. dicto anno xx. domini regis infrascript', p'd T. C. quinto exactus fuit, et non comparuit, et pro defectu, W. B. et R. C. coronator' com' p'dict' ulterius inde prosequi non potui.

*Pro defectu
Comitat'.*

Virtute, &c. Et ad com meum, &c. Et quod non fuerunt plures comitat' in com' p'dict' tent' a die receptionis hujus brevis p'dict', vsque ad diem retorn' ejusdem, per quod nihil actum est ad p'æsens; vel sic, Et ideo in executione istius brevis ulterius faciend' nihil actum est.

Retorna brevis de proclam'.

Virtute istius brevis mihi directi, ad com meum tent' apud castrum Canteb. in com' C. infrascript. xxj. die Marcij anno 19. infrascript', primo proclam' feci, et ad maximè vsuale Ostiū Ecclesie de B. infrascript' super diē dominicū sc. x. diem Aprilis anno regni domini regis infrascript' Angliæ, &c. xx. immediate post divinum servic', nulla p'edicatio eadem ecclesia ad tunc ibidem existens, vno mense ad minus antequam infranominat' I. S. quinto exact' fuit proclam' feci; Et ad general' Sesson' pacis tent' apud castrum Canteb. p'dict' in com' p'dict' iij. die Maij anno xx. supradict' (in partibus de B. p'dict') al' proclam' feci, quod infranominat. I. S. se reddat mihi prout interius mihi p'æcipitur

W. W. Mil' Vic.

Aliter.

Virtute istius brevis mihi directi, ad com meū tent' apud C. in com' C. infrascript' die Iovis xxj. die M. anno regni domini regis infrascript' xx. primo proclamari feci, Et ad com meum tent' apud C. p'dict' in dicto com' C. I. xx. die I p'dict' anno xx. dñi regis infrascript' secundo proclam' feci; Necnon ad general' sessionem pacis tent' apud C. in dicto C. (in partibus de M. infrascr') die Iovis scilicet iij. die O p'dict' anno xx. dñi regis infrascript', publice proclam' feci, q' I. C. et ceteri omnes defendentes infranomin' se reddant infrascript' vic' Ita q' ijdē Vic' habeat corpora eorum coram Iustic' infrascript' ad diem et locum infracontent. prout istud breve in se exigit & requirit.

Retorna Brevis de falso Iudicio.

Falso Iudicio

Virtute istius brevis (assumptis mecum, P. M. &c. quatuor legalibus milit' de com' meo) in propria persona mea accessi ad curiam E. tent' apud N. (tali die & anno.) Et in partibus curiæ illius ab A. B. &c. sectator' ejusdem curiæ, & R. H. Senesch'

Senesch'ibid',petij Recordum loquelæ q̄ est in eadem curia,per parvum breve dñi regis de Recto, inter I. P. petent' & N. S. tenet' fieri,et mihi liberari:Qui quidem Seneschallus,et Sectator Recordum illud inde mihi liberare noluerunt, ob quod execut' dicti brevis minime facer' potui.

Fitz. 18. c.

Upon the writ of false Judgement, which is an Accedas ad curiam, the Sherife must take with him foure men, but it is not needfull that they be knights: Fitz. 18. c.

This writ must be returned under the seale of the Sherife, and the seales of foure of the suitors of the same Court.

Ibid.

In this writ, it is a good returne for the Sherife to say, that after the receit of the writ, and before the returne thereof, no Court was holden, so as hee could not execute the writ, &c.

Also it is a good returne (in the writ) that the Sherife hath required the lord to hold his Court, and the lord would not, so as he could not execute the writ: And vpon such returne the Justices will award a distresse directed to the Sherife, to distraine the lord to hold his Court.

Fitz. 19. c.

In this writ, if the Sherife returneth, Quod breve adeo tarde venit, quod executione ejusdem facere non potuit, this is a good returne: and vpon such returne the partie may haue a Sicut alias directed to the Sherife; and if the Sherife doth not returne this at the day, then shall the partie haue a Pluries directed to the same Sherife, &c.

Also in this writ, if the Sherife returneth, that he went to the said Court of, &c. and there prayed the lord to hold his Court, that so hee might make execution of this writ, and that the lord refused to hold his Court &c. by reason whereof he could not doe execution of this writ, &c. then a distres shall bee directed to the Sherife out of the Court of Common Pleas, commanding him to distraine the lord to hold his Court at a certaine day to be limited him by the Sherife; and that the Sherife taking with him foure discreet knights, &c. of the Countie, &c. shall come to the same Court, &c. and that he returne the same such a day, &c. and also that he haue then and there the said record, &c. and that hee summon the aforesaid lord that he be there to heare the same record, &c.

Vi. Fitz. 19. c.

Retorn' de fieri feci sur fieri fac'.

Virtute istius brevis mihi directi, fieri feci de bonis et catal-
lis infranominat' J. H. quandam dimissionem et concessio-
nem eidem, J. H. per quendam T. G. gen' per Indentur' suam fact',

Fieri fas'.

Retorna Brevium.

pro termino xxxj. annoꝝ incipiendꝰ à primo die Iulij anno, &c. infraſcript' prout per Indenturam illam geren' dat' ejſdem die et anno plenius liquet et apparet, de et in vno meſſuagio ſive firma cū pertinentijs ſcituat' jacen' et exiſtent' in L. in parochia de F. infra ballivā meā, vocat' ſive cog' per nomen de B. ſimul cū omnibus et ſingulis terr' pratis paſcuis boſcis ſubboſcis aquis et paſturis cū omnibus ſuis ptinentijs, ſcituat' jacen' et exiſten' infra villā parochiā et Campos de F. p̄d et O. ſcilicet in balliva mea; Et p̄d dimiſſionē, ac omne et totū jus ſtat' titulū termin' annor' poſſeſſionē et demād' quæ p̄d I.H. modo habet, de et in p̄dict' præmiſſis, virtute ſive vigore ejusdem dimiſſionis et conceſſionis, aut aliter, vendition' expoſui et vendidi cuidā P.H. gen' pro ſum' lxxvj. li. xij. s. iiij. d. Ac etiā fieri feci de alijs bonis et catallis p̄dict' I.H. ad valentiā lxx. li. vj. s. viij. d. quas quidē denariorū ſummas, ſic in forma p̄d p me levat', in toto ſe attingūt ad ſummā cxxxij. li. xij. d. Et eaſdem ſummas corā dño rege ad diem et locum infracontent' parat' habeo ad reddendꝰ infranominat. E. P. et I. vxori ejus in parte ſatisfact' dampnorū infraſcript. prout per breve iſtud interius mihi præcipitur, Et q̄ p̄dict' I.H. nulla alia ſive plura bona aut catalla. in balliva mea habuit, vnde reſid. p̄dict' debet. clxv. li. vj. s. ij. d. fieri ſive levar. poſſum ſecundum exigent' hujus brevis.

A.B. Ar Vic'.

Aliter.

Virtute iſtius brevis mihi directi fieri feci infraſcript. x. li. de terris et catallis infraſcript. R. W. Quas quidem x. li. coram Juſtic. infraſcript. ad diem et locum infracontent. parat. habeo, prout iſtud breve in ſe exigit et requirit.

*Aliter ſur
devaſt.*

Virtute, &c. fieri feci C. s. de bon' et catall. infranominat. W. H. quos quidē C. s. corā Juſtic. infraſcript. ad diem et locū infracōtent. parat. habeo, prout, &c. Et ulterius eiſdē Juſtic. certifico q̄ executor. infraſcript. bona et catalla infranominat. W. H. teſtat. penit. devaſtaver'. ſic q̄ ſummā x. marcarum infraſcript. nec aliquam inde percellam fieri facere non poſſum ad præſens.

The ſherife (vpon a fieri fac. againſt executoꝝ) returneth that the executoꝝ had ſold the goods, or that all the executoꝝ but one, had nothing: theſe are no good returns: ſee hic f.

Aliter.

Virtute, &c. fieri feci de bonis et catall. terr. et tenemētis infranominat. R. B. ad valenc. CC. li. & illis de die in diem vendition' expoſui, et inde vendidi ad valenc. C. li. Quas quidē centū libr. ad diem et locum infracontent. parat. habeo, ad reddendꝰ infranominat. I. W. prout interius mihi præcipitur, et reſidꝰ bonorū et catallorū p̄d adhuc penes me remanent invendit. ob defectu emptorum.

A.B. Ar Vic'.

Vir-

Retorna Brevium.

93

Virtute, &c. capi bona & cattalla infra script' *A.W.* ad valentiam 4. l. de infra script' Octo libris, quæ bona & cattalla penes me remanent invendita pro defectu emptorum, quodque prædict' *A.B.* nulla alia neque plura bona seu cattalla, nec aliqua terr' seu tenement' habet in balliva mea vnde residuum prædict' octo librar', seu aliquam inde parcellam, ad præsens fieri facere possum, nec est inventus in eadem.

Adhuc illa bona & catalla, quæ nuper de bonis & cattall', fir- *Aliter.* mar', occupat' & tenen' manerij de *W.* ad valentiam, &c. in manus dñi regis capi, pro defectu emptorum remanent invendita, Sed de die in diem venditioni expon', et de denarijs inde provenient' quam citius potero, vobis respondebo.

Virtute, &c. vendidi bona et cattalla infra scripta per me prius *Aliter.* capta, Ac etiam fieri feci de bonis et cattallis *R.S.* infranominati residuum debiti infra contenti, Ita quod omnes denarios illos paratos habeo corā dño rege ad diem et locum infra content' infranominat' *H.W.* solvend', prout interius mihi præcipitur.

Quoad fieri faciend' denarios infra script' virtute cuiusdam *Super sed.* brevis dñi regis de super sed', mihi directi omnino super sed', & quidem breve de super sed', huic brevi annex. vobis mitto; Et ulterius certifico, q' dictus, *I.C.* non aliqua alia vel plura bona seu cattalla, terras seu tenementa in eadem balliva mea habet, vnde denarij aliqui ad præsens levari possunt, &c.

Aliter sur nihil habet.

Nihil,

Infranominatus *R.B.* Miles nulla habet bona seu cattalla terr'. *Aliter.* aut tenementa in balliva mea vnde denar' infra spec. fieri facere possum, prout interius mihi præcipitur.

A.B. Armig' Vic'.

Infranominatus *R. B.* nulla habet bona seu cattall' terr. seu te- *Aliter.* nementa in balliva mea, vnde denarios infra specificat. fieri facere possum, prout interius mihi præcipitur; Nec dictus *R.* est inventus, neque est aliqua talis persona in balliva mea.

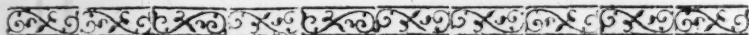
A.M. infra scriptus nulla habet bona seu catalla infra ballivā *Aliter.* meam de quibus executionem istius brevis facere possum, prout &c. Nec est inventus in eadem, nec aliqua terr' seu tenementa habuit infra eandem quinto die *I.* nec vnquam postea prout patet in quadam scedula huic brevi consut.

And yet where there is found Assets by a Jury, There, upon a fieri facias Directed to the Sherife, he cannot returne a nihil habet, &c. contrarie to the verdict of the Jury: see hic fol.

Retorna Brevium.

Restitutio sur Fieri fac'.

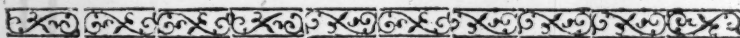
I. G. & alij infranominat. nihil habent, nec eorum aliquis nihil habet in balliva mea, unde restitutio bonorum & cattal. infra script. infranominat. *W. M.* habere facere potui; Necnon xxiii. infra script. eidem *W. M.* fieri facere potui prout &c.



Retorn' de Formedon.

Formedon.

In a Formedon, the Sherife returneth, quod nihil habet, Br. 62.
&c. nec est inventus, &c. **this is no good returne, for in this writ the Sherife may summon him in (or vpon) the land demanded, whether he be tenant thereof or no.**



Retorn' de Grand Cape.

Grand Cape.

Virtute istius brevis x. die M. anno. infra script. per visum *R. H. & T. H.* proborum et legalium hominum de com' meo, capi in manus domini regis, terras infra script. prout interius mihi præcipitur.

Summon' *I. D. R. F.*

And if this writ bee directed to the Sherife, and the place where it ought to be executed bee within a franchise, which hath full returne of all writs, then it must be thus. Infra libertatem.

Executio istius brevis patet in quadam scedula huic brevi annex.

Schedula.

Ego *A. B. Vicecom. com. Canteb.* mandavi *J. W.* ballivo libertatis de *R.* in com. prædict. Qui habet plenum retur. omnium brevium, & executionem eorundem infra libertatem prædict. in com. prædict. Et ad quem execut. istius brevis totaliter pertinet faciend', pro eo quod dicta executio inde alibi in balliva mea extra dictam libertatē fieri non potuit, qui mihi sic respondet, &c.

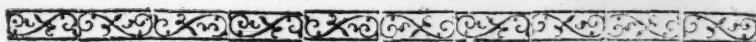
Aliter.

Virtute, &c. capi in manus dñi regis per visum *R. H. & T. H.* probor. & legalium homin. de com. meo, de terris & tenemen. *I. M.* infranominat. ad valenc. * vnius Messuagij, &c. vt in brevi infra content. (tali die et anno) juxta formam hujus brevis (vel, prout interius mihi præcipitur; vel prout istud breve in se exigat & requirit) vel

Aliter.

* Tertiam partem messuagiorū, gardinorum, & ceterorum præmissorum, prout interius mihi præcipitur.

Retorn'



Retorn' del Habeas Corpus, & Corpus cum causa.

Virtute istius brevis vobis certifico, quod ante adventum istius brevis, virtute alterius brevis, mihi prius directi, *A. B.* infra scriptus in prisoⁿa Castri domini regis de Canteb^r extit', ac ibidem languidus & infirmus iacebat, et in eadem prisoⁿa ad huc languidus & infirmus iacet, ita quod ipsum ob mortis metum curare non possum, ideo corpus dicti *A. B.* ad diem infra content' habere non possum &c.

Habeas corpus.

Languidus.

Iustic' domini regis certifico, quod infranominat' *I. B.* adeo languidus in prisoⁿa domini regis Castri sui Canteb^r in comit' *C.* varijs infirmitat' detent', Ita quod propter corporis sui debilitat', & mortis periculum, ipsum tute remove non possum, Ideo corpus ejus coram Iustic' infra script', ad diem et locum infra content', ad præsens habere non possum, juxta formam hujus brevis.

Aliter.

Languidus.

A. B. armig' Vic'.

*In these Writs there be diuers other manner of returnes,
and diuers of them are in manner following.*

Virtute istius brevis vobis certifico, quod ante adventum istius brevis *W. B.* infra script' captus fuit in alio loco, et prisoⁿa domini regis de *N.* commissus, virtute cujusdam alterius brevis mihi prius directi, cujus transcriptum vobis mitto huic brevi consut': Attamen corpus ipsius *W.* coram vobis prompt' habeo ad diem & locum infra content', prout mihi interius præcipitur &c.

Aliter.

In prisoⁿa.

Nos vic' præd. vobis significamus, quod ante adventum istius brevis domini regis nobis directi, & huic brevi consut', *I. F.* de *T.* in dicto brevi nominat' captus fuit in tali loco, & prisoⁿa domini regis de *C.* commissus, pro xx. l. de dampnis *T. C.* de *N.* in placito trñs, in cur' domini regis in dicto civitate *C.* coram nobis dict' vic' tent' adjudicat', Et similiter idem *Io.* detentus est in prisoⁿa præd. ad sectam *W. S.* in placito trñs corā nobis dict' vic' in cur' præd. habita & prosecut': Attamen corpus &c. (vt in prox' returnante &c.

For trespass.

Virtute istius brevis vobis significo, quod ante advent' ejusd' brevis

For felonie.

Returna Brevium.

brevis domini regis *R. A.* in dicto brevi nominat. capt. fuit in *L.* et prisonæ dñi regis de *C.* pro suspicionē communis latronis commissi. Et ulterius idem *R.* detentus fuit in eadem prisona, pro eo quod ipse pro diuersis felonijis per ipsum factis et perpet. apud *D.* in hundred de *A.* indictatus est vt informatus sum; Et alia vice captus armatus apud *I.* in com' (tali) duct. fuit prisonæ domini regis, dictusq; *A.* eandem prisonam domini regis felonice fregit et ab ea recessit ut dicitur, Attamen corpus ipsius *R.* (vt supra &c.)

Execution

Virtute &c. vobis certifico quod ante adventū ejusdem brevis *A. W.* infranomiñ per censuram ecclesiasticam, in ecclesia de *N.* (tali die et anno &c.) propter suam contumat. (vel similia) excommunicatus existit. ipseque *A.* per ordinarios sancti Martini Ecclesiæ instituc' in præmiss. adhuc restat in eadem cū excommunicatus; Et hæc est causa captionis et detentionis p'd *A.* attamen corpus ipsius *A. W.* coram domino rege ad diem et locum infracontent. vbicunque fuerit, habeo parat. prout &c.

*Counterfeit
monete*

Ante advent' istius brevis *C. D.* infra script. fuit in tali loco et prisonæ dom' regis de *R.* commissi. p' suspicionē contrafactionē monetæ regis, et ea de causa, et non alia in eadem prisona detentus est. Attamen ipsum *C. D.* coram vobis, ad diem et locum infracontent. prompt. habeo, prout mihi interius præcipit.

Murder

A. B. captus fuit apud *D.* in com. *E.* per *H. S.* seneschallum *T. F.* et cor' præfat. seneschall' Hundred' tent &c. indictatus fuit pro morte *I. T.* per prædict' *B.* occisi, et per præf. seneschall' missus fuit prisonæ dñi regis de *R.* quod quidem indictament' reman' præf. seneschall'. Attamen corpus ipsius *B.* coram dom. rege in Cancell' sua ad diem in brevi isto content. vbicunque fuer' &c. habeo parat. prout istud breve in se exigit et requirit &c.

Sequuntur hic diversæ causæ super return' hujus brevis de corpus cum causa inferend' &c.

*Si necesse fuerit causa captionis, et detention' A. B. de D.
infra script. hic subsequitur.*

Felonie

A. de *B.* captus est pro suspitione latrocinij, et quia non potest invenire sufficient. secū ad legē dñi regis expectand', prisonæ domini regis de *B.* commissi. fuit et in eadem causa præmiss. detinetur: Attamen corpus dicti *A.* coram vobis &c.

Account.

W. D. infra scriptus captus fuit ante adventum istius brevis (in tali loco) et in prisona domini regis ibidem sub mea custod' detinet'

detinet' pretextu cuiusdam quærelæ in curia domini regis ibid' coram me præf. vic' super ipsum per nomen *W.* &c. ad sectā (talis) in placito compot' affirmat', vnde in eadem cur' coram me dict' vic' partes præd. placitaver'. et posuer' se super Iurat' patriæ in eadem cur', Et postea dictus *W.* de *D.* pro suffic' manucap' ad respond. præfat' (tali) de placito præd. dimiss'. fuit ad largum a prifona prædict'. Et quia dictus *W.* post manucap' prædict'. ad iudicium non reven' custod', corpus ejus ad diem & locum infrat' content' habere non possum.

Ante adventū istius brevis *A.H.* & *S.* Auditores compotorū *Aliter.* *W.* de *B.* mihi per indent' deliberaver' corpus *R.S.* infra script', salvo et secure custodiend', quousq; satisfec' *W.* de *B.* de 200. l. arre' super fin' compoti *R.S.* per dictos Auditores invent' &c. Et hec est causa captionis & detentionis ipsius *R.S.* attamen corpus &c.

Infrascr' *I.C.* appellatus fuit apud *C.* coram (tali Iudice) per *Trafson.* *W.* probatorē (tali die & anno) p' diuersis p'ditionibus per ipsum perpetratis, & ex illa causa captus fuit in *C.* & commissus prifonā dom' regis de *N.* attamen corpus &c. ad diem & locum infrat' content' prompt' habeo, put' interius mihi p'cipitur &c.

A. filius *A.* de *B.* per nomen *A.* de *B.* ante adventum istius brevis *Vtlag.* vtlagatus fuit de felon' coram *P.S.* *R.T.* et soc' suis Iustic' dñi regis ad pacē in tali libertat', vel in com', conservand': Et postea per p'ceptum dictorum Iustic' mihi modo direct' idem *A.* capt' fuit apud *D.* & causa p'posita commissus prifonæ dñi regis de *C.* attamen &c.

Virtute istius brevis vobis certifico, quod *A.W.* infra script', *Supplicavit.* capt' fuit virtute cuiusdam alter' brevis dñi regis vocat' supplicavit ad sectam *D.P.* diu ante adventū istius brevis, & commissus prifonæ dñi regis de *C.* p' eo quod non potuit suffic' invenire securitatē de pace gerend' erga dict'. *D.* et hac de causa & non alia in dict'. prifona detinet', attamen &c.

Aliter potest dici quod condempnat' in tali curia, ex cognit' sua propria, vel per taxationem suam per consuetudinem curiæ. *Regula.*

Ante adventum istius brevis, virtute cuiusdā alterius brevis voc' Cap. vtlag. mihi directi, cuius transcr' vobis mitto presentibus annex': Capi *C.D.* infranom', ipsumq; prifona dñi regis de *C.* commissi & adhuc in eadē detinetur prifonā causa p'miss'. attamen corpus &c. *Cap. vtlag.*

Other

Retorna Brevium.

Other speciall returnes vpon a Habeas Corpus.

*Captus a
satisfac.*

EGO *A.B.* armig' vic' com' Cant. domini regis ad diem & locum in brevi huic scedula annex' content' certifico, q ante adventum ejusdem brevis *A.O.* in dict. brevi nominat' capt' fuit infra com' prædict. per *W.V.* armig. nuper vic' comit' prædict. & in prison dicti domini regis Castri sui Canteb' in comitat. p'd' salvo custod', ejusdem nuper vicec' detent', virtute cujusdam brevis dicti domini regis de capiend. versus dict. *A. gen.* teste apud Westmonasterium nono die Octob. anno regni &c. retorn coram Iustic' dicti domini regis apud Westmonasterium a die sancti Martini in 15. dies tunc proxim' sequen' ad satisfaciend. *T.D. gen.* tam de quodam debit' de 40. l. quam de 30. s. pro dampnis, vnde idem *A.* coram præfat. Iustic' apud Westm' convictus fuit, cujus quidem corpus, sic capt. & in prisona præd. sub custod. dicti nuper vicecom. ea occasione existen' detent', ego præf. *A.B.* nunc vicec. com. præd. recepi de præd. nuper vic. in ejus exitu ab officio suo, & corpus ejus per me de præf. nuper vic' sic recept. in prisona præd. salvo custod. feci, quousque postea scilicet decimo die Decemb. anno &c. recepi quoddam breve dicti dñi regis de supersed. mihi directi, cujus quidē brevis tenor sequitur in hæc verba *Iac.* &c. Virtute cujus quidē brevis de supersed. p eo quod non fuit aliqua alia causa detentionis p'd. *A. dict. A.* ad largum ire permisi, dict. breve de capiend. ad satisfac' in aliquo non obstante, put per dict. breve de supersed. mihi inde p'cipitur, Ideo corpus p'd. *A.* corā p'f. dño rege ad diē & locū in dicto breve huic scedula annex. content', parat. habere nō possum, put idē breve in se exigit & requirit.

Supersed.

A.B. Armig' Vic'.

*Captus in
executione.*

EGO *A.B.* armig. vic. com. Cant. dño regi certifico quod corpus infranom. *R.T.* iacet sub salvo custod. mea in executione ad sectā *T.B.* p 100. l. ret. corā Iustic. dñi regis apud Westm. a die sancti Mich. in vnum mens. Ideo corpus ejus ad diē & locū infracontent' habere non possum, put interius mihi p'cipitur.

A.B. Armig. Vic'.

If a man be condemned in any court, and his body taken in execution, and then he procures any writ to the sherife to remouue his bodie &c. the sherife vpon such writ, ought to returne

turne the truth, sc. that his prisoner is condemned by judgement, or in execution, that so at the last the prisoner may be remanded. See Stat. 2. E. 5. ca. 2.

Ante adventum istius brevis mihi directi, infranominat' H. H. commissus fuit gaolæ domini regis Caltri sui Canteb' in comitat' infrascr sub custod' mea. virtute cuiusdam War' F. C. & I. W. duorū Iustic' dicti domini regis ad pacem in com' prædict. conservand', necnon ad divers. telon' transgr & al' malefact. in eodem com' perpetr' audiend' & terminand' assign', gereñ dat' tertio die A. anno infrascript', pro quibusdam transgression' & contempt' contra formam statuti pro punitione vagabond. & pro pauper' & impotent' edit', & hæc est causa captionis & detent' ipsius H. Corpus tamen prædict. H. ad diem & locum infracont' parat' habeo, prout interius mihi præcipitur.

Impris. per warr. del Inst. de P.

A. B. armig' Vic'.

Ego A. B. armig' vic' com. C. Iustic' infrascr' certifico, quod corpora R. T. et cater' defend' infranominat' per me non capti fuer', sed per W. V. armig. nuper vicec' com. pd. pdecess. meum, et mihi per ipsum minime deliberat' in exit' ab officio suo, ideo corpor' eorum corā Iustic' infrascr' ad diē & locū infraconten' habere non possum, put interius mihi p'cipitur.

Captus per dar' vic'.

A. B. Armig. vic.

Virtute istius brevis mihi directi mandavi ballivo libertatis T. Episcopi E. ad capiend' & arrestand' infranominat' I. S. in forma infrascript', qui plenum habet retorn' omnium brevium & pcepto' et executionū eorundē infra libertatē pd. Ac quod nulla execut' istius brevis per me fieri potest infra eandem libertatē; Qui quidem ballivus nullum mihi adhuc dedit responsū; vel sic, qui mihi respondit q' infranominat' I. S. non est invent' in balliva sua; vel sic, quod cepit corpus infranominat' I. S. cujus quidem corpus ad diē et locum infraconten. parat' habet ad fac', eā omnia quæ istud breve in se exigit & requirit.

Mandavi ballivo.

Habeas corpor' Iurato'. Vide hic Retorn' de Venire facias.

Habeas corpor' Iurato'.

Virtute istius brevis mihi directi, Iustic' infrascript. certifico, quod tali die et anno infrascript. habere feci A. G. plenā seisinā de

Habere fac. seisinam. de

Retorna Brevium.

de vno messuag. cum pertiñ in S. infrascr', in omnibus put istud breve in se exigit & requirit.

And the sherife in these cases is to put the partie in possession and seisin by a twig, clod, or the like, as it seemeth, Br.Rediff. 5.

Aliter.

Virtute &c. tali die & anno infrascr', habere & assignare feci infranominat' A.G. plenariam seisinam, de manerio & tenemento infrasp. in loco convenienti, viz. de manerio de F. 20. acr' terræ, 100. acr' prati &c. cum pertinen. in F. &c. in com. infrascr', secundū formā & effectum &c.

Aliter.

Virtute istius brevis mihi directi 26. die O. anno infrascript. habere feci infranom' N. S. plenā seisinam de & in tenementis infrasp. cum pertinen. put interius mihi præcipitur.

A.B. Ar Vic'.

Note that in an Habere facias seisinam, it is no good returne, that there is no such land &c. Br.Ret. 87.

Neither is it any good returne, that another is tenant of the land by right, Co. 6. 52.

Retorn' de habere fac. possession. cum fieri fac'.

Habere fac. possess:

Virtute istius brevis mihi directi. vicesimo quarto die Maij, anno infrascript. habere feci infranominat. H. H. possessionē termini sui infrascript. de tenementis infrascript. cum pertinen; ac etiam fieri feci de terris et catallis infranominat. W. W. xx. s. parcel' dampnorū infrascr', et denarios illos habeo coram Iust. infrascr'. ad diem & locum infracontent. ad reddend. præf. H. H. put interius mihi præcipitur.

A.B. Armig. Vic'.

Habere fac. visum.

Virtute &c. Iustic. infrascr' certifico, quod nullus ex parte R. S. venit ad ostendend. mihi visum de messuag. & pratis cum pertinentijs infrascr', Ideo ad executionē istius brevis per me nihil actum est ad præsens.

Aliter.

Virtute &c. Iustic. infrascript. ad diem & locum infracontent. certifico, quod tali die & anno, habere feci infrascr'. I. F. & M. vxori

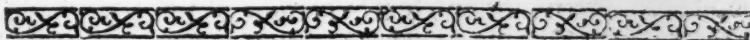
vxoriejus, visum de messuag. &c. infraspacificat. cum pertinen. Et dixi *A.B.C.D. E.F. G.H.* quatuor milit. de com. meo, qui visui illi interfuer, quod sint coram Iustic. prædict. ad diem et locum infracentent. ad testificand. visum illi, prout interius mihi præcipitur.

Virtute &c. domini regis huic scedulæ annex. habere feci *I. Aliter.* G. in eodem brevi nominat. visum de lx. ac pastur cum pertin. in G. quas *H.F.* in cur dom. regis coram Iustic. suis apud West. clam. ut jus & hæreditat. suam versus præd. *I.G.* per breve dñi regis in forma donationis in discend. Et dixi quatuor milit. qui visui illi interfuer quod sint coram Iustic. dict. dom. regis apud Westm. ad diem in dicto brevi specificat. ad testificand. visum illi, put in eodem brevi mihi præcipitur.

Nullus venit ad me ex parte infranominat. *R.F.* ad monstrad. *Aliter.* mihi visum de pastur infraspacificat, ob quam causam visum de pastur illi infr. *R.F.* habere facere non potui.

See plus hic postea tit. Bre de View.

Note that upon a writ of View, it is a good returne, Quod nullus venit ex parte petentis ad demonstrandum, (or ostendendum) sibi terrā, for the sherrife is not bound to know, nor to seeke the land. *I 4. H. 6. 20. et 32. H. 6. 27.*



Homine replegiand'.

Virtute istius &c. domini regis interius nominat. certi- *Homine repleg.* fico quod nullum aliud breve, vel mandat' dict. domini regis de repleg. infrascript. *I.C.* quam *W.S.* infranomin. capit & capt. tenet, prout interius specificat. quam istud breve de plu'r repleg. præd. *I.* ad manus meas devenit, nec mihi liberat. fuit, Nihilomin' Iustic. dicti domini regis ulterius certifico, quod statim post receptionem ejusdem brevis accessi ad prædict. *W.S.* de repleg. faciend. prædict. *I.* quam præd. *W.* mihi ostendere noluit, sed præd. *I.* ante adventum istius brevis ad loca mihi incognita elongavit, et post receptionem ejusdem brevis, ipsa *I.* non est invent. in balliva mea, sic quod. aliquam repleg. ipsius *I.* juxta mandat. hujus brevis vllomodo facere non potui, put interius mihi præcipitur.

Nullum aliud breve præter istud de replegiand. infranomin *Aliter.* *D. G.* ad manus meas hucusque devenit, Et ulterius Iustic. infrascript.

Retorna Brevium.

frascript' certifico quod prædict' D. elongatus est ad loca mihi ignota, per infranominat' I. T. I. B. & T. R. per quod prædict' D. repleg' non possum, prout interius mihi præcipitur.

In a writ de Homine Replegiando, it is a good returne for the sherife to say, that the defendant claimeth the plaintife to be his villaine, per quod ipse ulterius facere inde non potest, &c. 3.H.4. fol. 2.
Br. 104.

And yet vide Fitz. fol. 66. f. & 68. b. that upon sureties found by the plaintife to yeeld his bodie, &c. hee shall have a speciall writ to the sherife to deliuer the plaintife, &c.

If the defendant claimeth the plaintife to bee his Ward, (in a writ de Homine Repleg') it seemeth to bee a good returne for the Sherife, to say so; and the plaintife may have a speciall writ, &c. shewing that he holds the same land of the defendant in Socage, and not by Knight service, commanding the Sherife to deliuer the plaintife, &c. and to take pledges of the defendant for his appearance, &c. and to answer the plaintife, &c. Fitz. 67. 2.

In a writ de Homine Repleg' if the sherife returne that the defendant hath esloigned (or conveyed away) the body of the plaintife, so as he can not make deliuerance, &c. Then the plaintife shall have a Capias in Withernam to take the body of the defendant, and him to detaine, &c. untill, &c. (be he a Peere of the Realme, or other common person:) And if the sherife returne non est inventus upon this Capias in Withernam for the body; then the plaintife shall have a Capias in Withernam of the goods of the defendants.

Cap. in Withernam.

Retorn' brevis ad Inquirend' de Dampnis in breve de Dote,
vbi tenens obiit seiscitus: see hic antea Retorn' de Dote.

*Retorn' brevis ad Inquirend' de Dampnis
in breve de Transgress.*

Executio istius brevis patet in quadam Inquisitione, &c.

Inquisitio indentat' capta apud W. in com' C. (tali die & ann') coram R. W. Armig' Vic' ejusdem com' virtute cujusdam brevis dñi regis eidem Vic' direct', & huic inquisitioni consut', per sacrament' R. S. &c. (ad numerū 12. Juratoꝝ,) Qui dicunt sup' sacrament' suū, qd A. P. in brevi huic inquisitioni consut' nominat', sustinuit dampna occasione transgressionis p I. H. in prædict' brevi nominat', prout in eodē brevi fit mentio, ad xl. s. Et pro misis & custagijs

custagijs ipsius A.P. per ipsum circa sectam suam in hac parte ap-
positis ad xl.s. In cuius rei &c.

Executio istius brevis patet &c. (vt supra.)

Inquisitio &c. Qui dicunt super sacramentum suum, quod *Aliter.*
W.B. in dicto brevi nominat', sustinuit dampna occasione trans-
gres. in eodem brevi spec' ad viginti solidos, & pro misis & cu-
stagijs suis per ipsum circa sectam suam in illa parte apponit' vi-
ginti solid'. In cuius rei testim' &c.

Inquisitiones { Upon an Elegit. See hic tit. Elegit.
Upon an Extent. hic tit. Extent.
To enquire of Damages. hic supra.
Upon a Partition. hic tit. Partition.
Upon a Recog. hic.
Upon a writ of waste. hic tit. Waste.
Also see hic Proces return out of the Exche-
quer.

Languidus in prisona. See hic antea fol.

*Languidus
in prisona.*

T. F. infrascriptus nulla habet bona sive catalla in balliva
mea de quibus denarios infrascriptos, aut aliquam parcellam in-
de levare possum, prout interius mihi precepitur &c.

Levari fac'.

Virtute &c. cepti in manus domini regis quoddam hospicium
cum tribus shopis (in tali loco) ipsius I. F. infrascript', quæ valent
per annum ultra repris. x. l. Et quod prædict. hospicium cum
shopis prædict. salvo custod', donec aliud a vobis inde habeo in
mandatum.

Aliter.

Upon a Levari fac', if the sherife returneth, that hee hath
levied x. l. of the summe &c. the which hee hath delivred to
the partie &c. this seemeth to be a good returne: and upon
this returne the partie may sue a Sicut Alias levari fac' direc-
ted to the sherife to levie the residue. Fitz. 265. h.

I. D. infranominatus fugit ad libertatem I. E. arm, & conti-
nue ibid. moratur, Ita quod ipsum capere non possum, this is a
good returne.

Libertie.

Retorna Brevium.

Retorn de Mandavi Ballivo libertatis.

Mandavi
ballivo.



Virute istius brevis mihi direct. mandavi ballivo li-
bertatis T. Episcopi E. ad capiend & arrestand infra-
nominat. I. S. in forma infrascript. qui plenum habet
retorn omnium brevium & preceptor. & executionu
eorundem infra libertatem pd. Ac quod nulla executio istius bre-
vis per me fieri potest infra eandem libertat. qui quidem balli-
vus nullum mihi adhuc dedit responsum, vel sic, qui mihi re-
spond. quod infranominat. I. S. non est inventus in balliva sua;
vel sic, quod capit corpus infranom. I. S. cuius quidem corpus
ad diem & locum infracentent parat haber ad fac. ea omnia que
istud breve in se exigit & requirit.

A. B. Armig. vic.

Moses.

In a writ of *Writne* the proces at the common law was
only a Dist. infinite, in the same countie where the land ly-
eth; but at this day the pl. may chuse whether he will sue
by proces at the common law, scz. Dist. infinite, or by proces
which is given by the statute of 13. E. 1. scz. summons, at-
tachment, and the great distresse, which shall have day of re-
turne by such time, that two counties may be holden, in
which two counties the sherrife shall cause to be proclaimed
solemnely that the *Writne* do come at the day contained in
the writ, to answer the plaintife &c. and if he come not, and
the sherrife returneth the writ accordingly, then the *Writne*
shall lose the services of the plaintife &c.

Fitz 137. b.

13 E. 1. c. 9.

Retorn super breve de Ordine Militari recipiend.

De ordine
milit' recipi-
end.

Virute istius brevis tam infra libertates quam extra, per totam
balliviam publicam proclamavi, quod omnes & singuli personarum terri-
tent & reddut infrascripti est habent, (quorum nomina in quadam
scedula huic brevi annexa sunt scripta) ad presentiam domini regis cir-
ca festum infrascriptum personaliter compareant, & accendant ad pre-
ordinem recipiend. prout interius mihi precipitur.

Milit' par-
liamenti.

Eligend. Milit' Parliamenti. See antea fol. & hic postea fol.

This

Fitz 78 a

This writ may goe out to the sherife to hold plea of the matter in his countie, or it may be returnable in Banco. *Nativo habendo.*

Fitz 77. a. c

Upon this writ sued out by the Lord and directed to the Sherife, the sherife may seise the villeine (if he can) & may deliver him to the Lord, if the villeine shall confesse to the sherife that he is a villeine; but if the villeine shall alledge to the sherife that he is a free man, then the sherife may not seise him, but then the Lord must sue out a writ called a Po- ne, to remove the plea before the Justices of the common Bench.

Fitz 77. d

Also where the villeine shall purchase a writ de Libertate probanda, the sherife is to proceed no further in the writ de Nativo habendo, for the writ de Libertate probanda, is as a Superfedas, and to adioyne the record &c.

Admeasuremt de Dower, the plaintife shall have the like or judgement, as if the writ had Pasture bene returned served.

Affise, the Affise shall be taken.

Briefe de Gard, the plaintife shall have judgement as if the writ were served.

Briefe de Mesne, Proces shall goe out to forejudge the Mesne.

*Sur Nihil
retorne
in*

Quare impedit, Vide hic, Returne of a Quare impedit.

Scire facias, Two Nihils returned doe counteruallie Scire feci.

Upon a Scire facias to execute a judgement in Debt, *2. H. 7. 3.*

Trespasse, or Annuittie, if at the first day the sherife shall returne Nihil, the pt shall have execution.

In an Accompt, the defendant was outlawed, and obtained his pardon, and had a Scire fac' against the plaintife, who was returned Nihil, and the pardon was allowed vpon one Nihil returned &c.

21. E. 3. Br. Retor 109.

Scire fac' vers executors, sur deux Nihils retorne, ils serra con- demne, & charge de lour proper biens. *Co. 5. 32.*

Briefe de Wast, The plaintife shall have judgement, as if the writ were served.

Retorna Brevium.

Retorū brevis si defend. fit insuffic' &c.

Pleg' de proseq. *I.D. R.R.*

In Det. Infranominati *A.B. & C.D.* nihil habent in balliva mea per Nihil quod sum possunt, **(if it be in debt.)**

In trespass. Infranominati *H.B. & C.D.* nihil habent in balliva mea per q attachiari possint **(or potest, if but one Defendant.)**

Note if there be no mo defendants than two, then you must name but one, & ceteri defend infranominati, nihil habent &c.

Sur Distr. Infranominatus *A.B.* nihil habet in terris, tenementis, & hereditam infra script', per quod ipsum distringere possum.

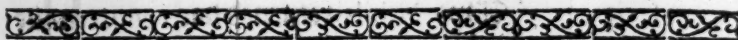
Or thus; Nullum tale maneriū, neq; vlla terr' sive ten'ta cognita per nomen de *E.* iac' in com' Cantabr. vnde tenentes inde distringere possum, put interius mihi præcipitur.

Sur Fieri fac'. Infranominatus *R.B.* miles nulla habet bona seu cattalla, terr', aut ten'ta in balliva mea, vnde denar' infra spec' fieri fac' possum, put interius mihi præcipitur.

Sur Scire fac'. Infranominatus *A.B.* nihil habet in balliva mea per quod ei scire facere possum, neq; est inventus in eadem.

A.B. Ar Vic'.

Plus hic fol.



Partitio.

Retorna brevis originalis in partitione.

Pleg. de proseq. $\left\{ \begin{array}{l} I.D. \\ R.F. \end{array} \right.$

Summ infranominat' *B.R.* $\left\{ \begin{array}{l} W.H. \\ H.F. \end{array} \right.$
& *E.* vxoris ejus

A.B. Armig. Vic'.

Note that such a returne may be made in all other actions reals, if the defendant be insufficient.

The returne of a Writ of Partition.

Partitio. Executio istius b'ris patet in quadam inquisitione huic brevi annex'.

Virtute

Virtute brevis dñi regis mihi direct', et huic particion Indentat' annex', Ego, *I. D.* miles *Vic. com. prædict'* xx. die *A. an'* & c. xx. assumptis mecum *I. S.* & c. xij. liberis & legalibus hominibus de com' meo, ac de visnet' infra. in præsentia *H. F.* in brevi prædict' nominat', in propria persona mea accessi ad tenementa in dicto brevinominat', et ibid' p' eorū sacrament' (habito respectu ad verū valorē eorund' tenementorū cū pertiñ) eadē tenemēta in p'ticionē in tres partes equales partiri feci, et vnā partē eorundē triū partiū, viz. xij. pedes in longitud', et xvij. pedes in latitud' messuagij in prædict' brevi specificat', extend' ad ter' *F. G.* vocat' *B.* versus le West, et xxxiiij. pedes in latitud', et xij. virgat' in longitud', et vnus Gardini in breve p'd. specificat' eidem messuagio adiaceñ abbur' versus le West ad ter' p'd. *F. G.* vocat' *B.* et ter' gleb' rector' de *S. Necnon*, & c. Et ego præfat' vic' p'd. xx. die *A. anno*, & c. ea deliberari et assignari feci *H. F.* in dicto brevi nominat', tenend. ei in separalitate, secundū formā & effectum brevis p'd'. Ac prout idem breve in se exigit et requirit.

Quæ quidē integra tertia pars p'd. tenementorū in p'd. brevi specificat', p'f. *H.* in forma p'd. deliberat' et assignat' est, et quo ad duas partes residuū p'd. tenementorū in brevi p'd. specific', *I. F.* in eodē brevi similiter nominatus, ad particionem p'd. deliberat' et assignand', Iustic' dñi regis in brevi p'd. specificat' certifico, q' nullus ex parte ipsius *I.* venit ad recipiend' de me præfat' vic' easdem duas partes. Ita q' duas partes illas præfat' *I.* liberare et assignare non potui, prout breve prædict' in se exigit et requirit. In cuius rei testimonium tam sigillum mei præfati vic. quam sigilla prædict' xij. Iurator', huic particioni Indentat. sunt appens. dat. die & anno supradicto.

Retorn' de Summon' Parliamenti.

Executio istius brevis patet in quibusdam Indenturis huic *Parliamenti* brevis annex'.

Retorn' de Summon' Milit' Parliamenti.

Virtute, & c. sum feci *A. B.* Militem, vnum Milit' de com' meo gladio cinctum p' *B. T.* & *C. B.* quod sit coram Iustic' infra script' ad diem & locum infranominat', prout istud breve in se exigit et requirit.

Manu cap' infranominat' *A. B. B. T.* et *C. B. I. D. R. R.*

Exitus cujuscumque eorum, xx. s.

Retorna

Retorna Brevium.

Retorna Eligend' Milit' Parliamenti & Burgeff. See
hic antea.

Præmunire.

Virtute istius brevis tali die et anno per I. S. T. W. R. T. et E. F. probos et legales homines de balliva mea, præmunire feci W. R. clerico infranominat', quod sit corā dñō rege ad diem infracontent' vbicunque, &c. ad faciend' & recipiend' prout istud breve in se exigit et requirit; Et I. B. et ceteri defend' infranominat' nihil habent in balliva mea per q̄ eis præmunire facere possum ad præsens, nec sunt invent' in eadem.

Præcipe quod reddat.

In a præcipe quod reddat, it is a good returne for the Sherife, to say that the tenant is dead: 32. H. 6. 27. Br. 135.

In a præcipe quod reddat, the tenant auoucheth, and the Sherife returneth (vpon the summons ad warrantizandū) that the vouchee, nihil habet, nec est inventus, &c. this is a good returne: but otherwise it is in a Formedon, for that in a Formedon the Sherife may summon him in the land demanded, whether he be tenant thereof or no. 14. H. 6. 20.
Br. 61.

In a præcipe q̄ reddat, it is no returne to say, that the tenant hath peelded the land: 2. H. 7. Br. Return' 84. Br. 84.

In a præcipe q̄ reddat, if the Sherife shall returne the tenant summoned, where indeed hee was not summoned, whereby the tenant loseth his land by default, vpon the Grand Cape returned, the tenant shall haue his action against the Sherife for such his false returne. Fitz. 97. c.

Note that in a præcipe quod reddat, there ought to be two summoners, Plo. 393. a.

Proces.

Returne de Proces Originall: scz. Capias, Alias, & Pluries:
see hic antea Return' de Capias.
Return' de venire facias: see hic postea.

Return' de breue de Proclam'.

Proclamac'.

Virtute istius brevis mihi direct', ad comit' meum tent' apud castrum C. in com' Canteb. infrascript xxj. die Martij anno xix. infrascript' proclam' feci, Et ad maxime vsuale Ostium ecclesie de B. infrascr' super diem dominicū: scz. decimo die Aprilis anno regni dñi regis infrascr' Angliæ, &c. Vicefimo, immediate post diuinū servic', nulla p̄dicatio eadem ecclesia ad tunc ibidem existens, vno mense ad minus antequam infranom' W. quinto

quinto exact. fuit proclam feci; Et ad general' Sessionem pacis tent. apud castrum Castebr præd' in com. prædict. 4. die Maij, Anno vicefimo fupradict. in partibus de B. prædict. al' proclam feci quod infranominat' A. B. se reddat mihi prout interius mihi præcipitur.

Vide Retorne de Proclam' } in Dower } hic antea fol.
 } fur Exigent }
 } in Wast. } hic postea fol.

R. M. mil. Vic'

Retorne de Pone (sc. de remoue plee &c.

Pone.

Pleg' de prosequend' U. D. R. F.

Infranominat' H. E. attach. est per pleg. N. F. R. D.

R. M. mil. Vic'

Infranomin. I. H. nihil habet in balliva mea per q' attachiari potest.

Nota que chescū Pone est forsq' summons.

Virtute istius brevis mihi direct. posui coram Iustic' dñi regis de banco apud westm. loquelā quæ est in com. meo per breve dicti dñi regis, inter T. W. & H. B. de auerijis ipsius T. W. capt. & injuste detentis vt dic' prout patet in quadam scedula huic bre- *Pone fuit re- pleg'.*

Summon T. P. I. D.

Ad com. meum tent. apud C. 12. die A. anno regni dñi regis nunc &c. 20. T. W. querit versus H. E. de placito captionis & injuste detentionis auerijis; Et sunt pleg. de prosequend' et retorna habend. si ret. inde adjudicet' viz. I. M. W. F. In cujus rei testimonium I. K. B. C. D. G. & R. S. quatuor legales homines exilis qui recordo illo inter fuisse in plena curia illa eidem record sigilla sua alternatim apposuerunt die et an' fupradictis. *Secunda.*

12. E. 4. 11.
Br. 103.

In a Replevin a pone went out, and the plaintife was nonsuit in the Countie, yet by Catasby, the sberife may serue the Pone; but Wast. Brooke maketh a quære thereof, for that by the nonsuit it seemeth there resteth no thing (or plee) to be remoued; But the sberife may retozne, quod ad proxim. comitatum &c. le plaintife fuit nonsue, & sic nul parol la.

In

Retorna Brevium.

Quare Impedit.

*Quare Im-
pedit.*

In a Quare impedit, the Sherife returned nihil, upon the 11.H.6.3.
Br.101.
summons, and upon the attachment, and upon the dis-
tresse, and it was holden that the plaintife should recour,
by the intendment of the statute made Anno Tamen
Martin contr', and that the Sherife might have summo-
ned the defendant in the Church: vide

If the Sherife returne upon a Quare Impedit, Quod quæ- Fitz.3.6.
rens non invenit plegios, then the plaintife may find pledges
in the Common place, and shall have a new writ of Quare
Impedit, and if the Sherife returne thereupon, Tardè, and
the defendant appeare, and the plaintife bee demanded and
comes not, the defendant shall not have a writ to the Bi-
shop, for that no writ was served upon the defendant.

If the defendant comes not at the distresse returned Fitz.3.6.
against him, the plaintife shall have a writ to the Bishop,
without making any Title.

Quo Inve.

Virtute, &c. tali die & anno, &c. Capi in manus dñi regis te-
namenta infra script' cum pertinent': Et ulterius eisdem die et
anno scire feci, tam A.B. capitali dño immediat' feod' tenr' in-
fra script' cum pertinen', quam infra script' H. D. per probos et
legales homines de balliva mea, quod sint coram Iustic' infra-
script' ad diem et locum infra content'; auditur' recogn' infra-
script' prout interius mihi præcipitur. Et ulterius eisdem Iustic' cer-
tifico, quod non est alius capitalis dominus feod' prædict' me-
diat', neque immediat', inter dominum regem, et infra script'
A.B. cui scire facere potui.

Retorn' de Recordare facias Loquel' in Comit'.

Recordare.

Virtute istius brevis mihi directi in pleno com' meo tent'
apud C. in com' C. infra script' tali die et anno, recordare
feci loquelam quæ est in eodem com' inter partes infra script',
vnde interius fit mentio, quæ quidem loquela patet in quadam
scedula huic brevi annex'. Et record' illud habeo coram Iustic'
infra script' ad diem & locum infra content' sub sigillo meo, et
sigill' W.H.T.R. &c. quatuor proborū et legalium milit' ejus-
dem com', ex illis qui record' illo interfuerunt. Et partibus in-
fra script' diem illum præfixi, quod tunc sint in loquela illa, pro-
ut justum fuerit prosecutur', prout interius mihi præcipitur.

Ad

Ad com̄ meum tent' apud C. in com̄ p̄d tali die & anno, co- *Scedula.*
ram W.H. S.S. T.V. & A.B. quatuor sectatoꝝ curiæ p̄d, inter
alia sic continetur.

R.S. quæritur versus I.T. de placito captionis & injuste deten- *Loquela.*
tionis averiorum suorum contra vad' & pleg' &c. Et sunt pleg' de
prof. Necnon de return habend' si return adjudicet'.

Pleg' de prof. I.D.R.F. In cuius rei, &c.

Virtute istius brevis mihi directi recordari feci loquelā quæ *Aliter.*
fuit in com̄ meo, inter partes infra script', & eisdem partibus
diem præfixi, essendi coram Iustic' infra script', ad diem & lo-
cum infra content', prout istud breve in se exigit & requirit:
Quæ quidē loquela patet in quadā scedula huic brevi consuta,

A.B. quæritur versus C.D. de placito captionis, & injuste de- *Querel.*
tentionis averioꝝ suorum.

Plegij de profeq' &c. (vt supra.)

Virtute istius brevis recordari feci loquelam, quæ est in com̄ *Aliter.*
meo sine breve domini regis, inter W.H. & A.D. de averijs
ipsius W.H. captis & injuste detentis, vt dicit. Et record' illud
habeo coram Iustic' infra script' ad diem & locum infracont'
sub sigillo meo, & sigillis A.B. C.D.E.F & G.H. quatuor lega-
lium militum de com̄ meo ex illis qui recordo illo interfuerunt,
prout patet in quadam scedula huic brevi annex', secundum exi-
gentiam istius brevis, &c.

Ad com̄ meum tent' &c. vt supra.

Virtute istius brevis mihi directi in pleno com̄ meo tent' a- *Querel.*
pud castrum C. in comitat' Canteb. infra script' (tali die & ann') *Aliter.*
recordari feci loquelam vnde interius fit mentio, quæ quidem
loquela patet in quadam scedula huic brevi annex'. Et recordum
illud habeo coram Iustic' infra script' ad diem & locum infra-
content' sub sigillo meo & sigillis W.H. E.R. &c. quatuor pro-
borū & legaliū militum ejusdem com̄ ex illis qui record' illi in-
terfuer' & partibus infra script' diem illum præfixi quod sint ibi-
dē in loquela ill' prout justum fuerit prosecutur', prout interius
mihi præcipitur.

Residuū executionis istius brevis patet in quadā scedula huic *Scedula.*
brevi annex'.

R.S. quæritur versus T. E. de placito captionis & injuste de- *Querela.*
tentionis averiorum suorum.

A.B. Armig. vic.

Fitz. 18. c.

Note that in the writ de Accedas ad curiā, the sherife must
take with him foure men: But in this Recordare fac' loquæ-
lam, the sherife needs not take any with him: But both
these

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these writs must be returned under the seale of the Sherife,
and the seales of foure of the Suitoys of the same Court.

Rediffesin. The Sherifes dutie in executing this writ: see hic fol.

Retorn' de Replevin sur Retorn' habend'

Averiorum.

Repleg'.

PLeg' de prosequend' & de retorn' inde habend', si retorn' inde adjudicetur, I.D. R.R.

Virtute, &c. Repleg' feci infrascripto R. averia infrascripte, prout in isto brevi mihi præcipitur: Et ulterius infranom' dño regi certifico, quod nullum aliud breve de infrascriptis averijs repleg' vnquam præter istud breve mihi liberat' fuit, &c. **Quare if this last clause be good: see hic infra 28. H. 6. ad not' t.**

Alius.

Virtute, &c. (tali die & anno) repleg' feci R. B. infranominat' averia sua infraspecificat', quæ infranominat'. T. M. & R. S. caperunt & injuste detinuer', secundum formā hujus brevis, prout interius mihi præcipitur. Et infrascript' T. & R. attachiati sunt per centum oves præcij vj. li. per T. F. ballivum, per placitum, I. T. & R. M. Et infranominat' R. B. attachiat' est per dict' ballivum meum per tres vaccas præcij. iij. li. per p'm prædict' I. T. et R. M. Et nullum aliud mandat' sive breve dñi Regis præter istud breve de averijs prædict' repleg' ante advent' istius brevis mihi vnquam liber' fuit.

Alius.

Virtute istius brevis mihi directi deliberari feci infranominat' I. B. averia quæ T. M. caput, et eidem T. M. in curia dñi regis adjudicat' fuer', prout interius mihi præcipitur.

A. B. armig' Vic'.

If the defendant hath retorne awarded him, and he sues a writ, de Retorno habendo, and the Sherife returns upon the plur': quod averia elongata sunt, &c. here hee shall have a scire facias against the pledges, &c.

Plur' Repl'.

Virtute, &c. dño Regi certifico, quod post receptionem hujus brevis, per totam ballivam meam diligenter inquisivi, & nullo modo mihi constare potest, quod aliqua averia infranominat'. W. P. capt' fuer' & injuste detenta per infranominat', I. N. prout in breve supponit; Ita quod executio istius brevis secundum tenorem & effectum ejusdem per me fieri non potuit, prout interius mihi præcipitur: Et ulterius dño regi certifico quod nullum aliud breve de plur' repleg' præter istud breve mihi vnquam deliberat' fuit.

In

28.H.6.

In a Replevin the Sherife returned (at the plu^r) q^d nul-
lus venit ex parte que^r ad demonstrand^u sibi averia ; **And hee**
returned further quod nulla alia brevia, inde ad suas manus de-
venerunt ; **And it was holden an ill returne, and the sherife**
was therfore amerced ; for it is a contempt in the Sherife
if one do it comes to him, and hee returnes quod nulla alia
brevia &c. 28.H.6. Br.9.

Averia e-
longat.

Ante adventum istius brevis, Averia & catalla infranomⁱ K.
quæ W. C. cepit & injuste detenuit, vt dicitur, Elongata fue-
runt per prædict. W. C. Ideo præfat^r K. averia & catalla sua
prædict. Repleg^r non possum &c.

Aliter.

Nullum breve de averijs infrascript^r repl^r præter istud mihi
vnquam liberat^r fuit. Et ulterius dño Regi certifico, quod ante
advent^r istius brevis averia prædict^r elongat^r fuerunt, & ad loca
mihi ignota transmissa per infranomⁱ I. T. Ita q^d ea infrascript^r
W. nullo modo repl^r possum, provt interius mihi præcipitur.

Aliter sur
a. deliue-
rance.

Ante adventum &c. averia infrascripta per infranomⁱ T. C.
elongata fue^r ad loca mihi incognita ; Ita quod visum eorund^m
infranominat^r A. H. et T. C. retornand^u habere non potui, put
interius mihi præcipitur.

Aliter in
Cancel.

Virtute &c. dño Regi in Cancel^r sua certif. q^d averia & catall^r
per infranomⁱ A. B. prius capt^r, elongata sunt ex com^u infrasc^r ad
loca mihi incognita per infrasc^r T. R. Quo averia & catell^r p^d.
infrasc^r R. retorⁿ non possum, put interius mihi præcipitur.

Aliter sur
a. deliue-
rance.

Ante adventum istius brevis, averia infrascripta elongata
fuerunt per infranomⁱ I. M. ad loca mihi incognita sic quod a-
veria illa infrascript^r N. M. retorⁿ non possum, juxta formam
hujus brevis.

Retorn^r præcepti sur second^r deliuerance in Com.

P Leg^r de pseq. et de reto^r habend^u &c. I. D. R. R.

Virtute &c. ego W. A. vnus ball^r infrañ petij de I. T. & R. *Replevin.*
N. infrasc^r deliberation^m de averijs T. B. infrascript^r viz. de tri-
bus bobus precij cujuslibet bovis xx.s. & duobus equis precij
cujuslibet equi xx.s. & renu^ere inde facere deliberationem, &
prædict. averia elongata sunt ad loca mihi ignota p^r q^d inde deli-
beration^m facere non potui, put interius mihi præcipitur. Et p^d
T. I. attach. est p^r vnam crateram argenti, ad valenc^m xx.s.

Where the sherife taketh insufficient pledges, de retorno *Retorn^r des*
habendo, **they are as no pledges,** Br. 2. *Avers.*

If a man hath a returne adjudged for him, this is no sa-
tisfaction for the thing for which it is awarded, but the de-
fendant

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pendant shall retaine this as a pledge or gage untill hee bee satisfied: But he hath not any propertie therein, so that if afterwards sufficient amends shall bee tendred to him, hee ought to accept thereof, otherwise the plaintife shall haue a writ of Detinue: Br. 6. 17.

Nota ou le tenant offer le ran, ou amercement, tempore districtionis factæ, ou apres le distresse prise, et le Signeour refuse, il n'auera Returne. Br. 11.

If the Sherife, vpon the Repl' Sicut alias, or plur' shall retorne that hee hath sent to the baylife of the franchise, &c. who hath made no returne to him; or that he will make no deliuerance, &c. Then the plaintife may haue a Non omittas to the sherife, commanding him to enter the franchise, and to make returne: And if then the sherife shall not doe this, the plaintife shall haue an alias, and plur' &c. to the Sherife: And yet it seemeth that these returnes, scz. q. mandavi ballivo libertatis, &c. qui mihi nullū dedit respons. or that the bailife will make no deliuerance, &c. are no good returnes: for by the stat. of Westm 1. c. 17. it appeareth that the sherife, vpon such returnes made to him by his bailife, ought presently to enter into the franchise himselfe, and to make deliuerance of the goods taken, &c. see the stat. 52. H. 3. c. 21. Fitz. 68. f. 3. E. 1. c. 17.

Note that there bee diuers manner of causes, which the sherife may returne vpon the pluries, for which hee cannot make Repleuie or deliuerance: see the Register, & Fitz. 73. g.

Also note that vpon these returnes following made by the Sherife, the plaintife shall haue a Capias in Withernam directed to the Sherife to take so many of the cattell of the defendant, &c. scz. if the Sherife vpon the Plur' shall Returne. Fitz. 68. g. Withernam.

1 Quod p̄d B. averia p̄d A. cepit et ea fugauit, de com p̄d in com' S. per q. ea eidem A. Repl' non potuit, &c.

2 Quod mandavit ballivo libertatis, de R. cui retor' breuiū, &c. qui respondit q. averia elongata sunt, &c. per q. non potest habere visum eorum; Nec de faire deliuerance. Fitz. 68. g. vi. Fitz. 69. b. & 74. a.

3 That he himselfe cannot haue the vieto of the beasts to make deliuerance.

4 That after the taking, &c. the defendant hath esloigned (or conueied away) the cattell out of the bailwicke, whereby he cannot make deliuerance.

5 That the defendant hath esloigned the cattell to places vnknowne, by reason whereof he cannot haue vieto of the cattell to make deliuerance.

6 Quod mandavit ballivo libertatis, &c. who answereth that the defendant hath imparked the cattell within the Rectorie

Rectorie of the Church of C. so as hee cannot make Delin-
rance, &c.

Br. 46. 108.

In a Repl' it is a good returne for the Sherife to say, that
the defendant oz his bailife, oz servant claimeth propertie
in the goods, &c. Sed nota que si le defendant in Repleg. elyngie
propertie fauxment, et isint est trove in proprietate probanda, il
serra fine, et imprison: Co. 8. 60. a.

In a Repl' it is no good returne to say that there are no
such cattell, Br. 89. 5. H. 7. 27.

Br. 89.

But the Sherife may returne, Quod averia sunt elongata,
5. H. 7. 27.

Also the Sherife may returne, Quod nullus venit ex parte
querentis ad demonstrand sibi averia: Br. 9. 89.

Br. offic. 10.
Br. tris. 104

The officer which maketh oz serveth a Replevin needs
not serve it, but only of such cattell, &c. as the plaintife in the
Replevin shall shew unto him (as it seemeth:) And the offi-
cer ought to take notice what and whose cattell, &c. they
beene which hee shall replevie at his perill.

20. E. 4. 11.
Br. 100.

If the Sherife returnes, Quod averia elongata sunt, ad loca
incognita, this is a good returne: but if the returne be, ad loca
incognita infra com meum, the Sherife shall bee amerced for
such a returne, for he is to take notice of them, if they bee
within his Countie.

Br. 125.

In a Repl' at the Pluries, the Sherife returneth that the
cattell are dead, and it was holden to be a good returne.

Br. 125.

If hee which is distrained, take his cattell againe, and
yet sueth a Replevie, the Sherife may returne the speciall
matter,

Retorn' de breve de Rescous.

Executio istius brevis patet in quadam scedula huic brevi
annex'. Rescous.

Virtute brevis domini regis mihi directi, & huic scedula an-
nexat', feci quoddam warrant' meū cuidam I. M. ballivo meo
itineranti, ad capient' & arrestand' E. G. in dicto brevi nominat.
secund' exigenc' ejusdem brevis, qui quidem ballivus meus
virtute warr' mei prædict', decimo die I. anno, &c. apud D.
in com' C. prædict' cap'it & arrestavit corpus prædict' E. G.
& ad tunc & ibidem ipsum E. G. in custodia sua habuit, super
quo F. G. de C. prædict' in com' prædict' gen', & T. M. de eisdem
villa & comitatu gen', ad tunc & ibidem vi & armis, viz. gla-
dijs pugionibus, & baculis, in prædict' ballivum meum insult' fe-
cerunt,

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cerunt, & ipsum ballivum meum adtunc & ibidem, contra legem & consuetudinem regni domini regis Angliæ, &c. ac contra voluntatem ipsius ballivi mei, imprisonaverūt, & ipsum ballivum meum in prisona ibidem per spacium vnus hore adtunc & ibidem detinuerunt, & x. d. in pecunijs numeratis de bonis & catallis & denar' ipsius ballivi mei à persona ipsius ballivi mei adtunc et ibidem prædict. T. M. cepit, Ac præfat. E. vi et armis prædict. adtunc et ibidem à custod' dicti ballivi mei ceperunt et rescusserūt, Necnon eadem E. seipsam adtunc et ibidem à custodia prædict. ballivi mei rescussit, contra voluntatem ejusdem ballivi mei, et contra pacem dicti domini regis nunc, &c. Et postea eadem E. non fuit inventa in balliva mea.

A. B. Ar. Vic'.

Aliter per ballivum Hundred'.

Virtute istius brevis feci quoddam warrant. meum W. H. ballivo hundred' de R. qui mihi sic respondit, quod vbi ipse virtute warr. prædict. decimo die A. anno, &c. apud C. in com' pd. cepit quendam I. S. et ipsum vsque ad grolam domini regis castri sui Canteb. ducere voluisset, ibidem salvo custod', illuc vener' quidam I. C. et R. S. cum plur. alijs ignor. vi et armis modo guerrino arreiati, et à custod' dicti ballivi apud, &c. prædict. I. S. ceperunt et abduxerūt, et ipsum I. S. evadere permiserūt. Et sic ob metu mortis sui ipsius I. S. evadere permisit, et ea de causa corpus prædict. I. S. coram domino rege ad diem & locum infracontent. habere nō possum, prout interius mihi præcipitur. Et vltorius certifico q' post prædict. decimū diem, &c. prædict. I. S. non fuit inventus in balliva mea.

A. B. Ar. Vic'.

Aliter per ballivum libertatis.

Aliter.

Virtute istius brevis, mihi directi mandavi I. S. ballivo libertatis de D. in com' pd. qui habet plenum retorn' omnium brevium, præcept. & warrant. sibi inde direct', Et qui tali die et anno apud P. in com' pd. T. S. in brevi huic scedulæ annex. nominat. et in eodem warr. sibi directo similiter nominat. cepit et arrestavit et ipsum T. S. in custodia sua occasione prædict. adtunc et

et ibidem habuit et tenuit, ac quidam I. C. nuper de S. in com
prædict. husbandman aggregat. sibi quam plur. al' malefact. ig-
nor', pacisque domini regis perturbat', ad numerum vigint. per-
sonarū, modo guerriū arreiat', vi et armis viz. &c. in ipsum bal-
livum adtunc et ibidem rīotose insult. fecerunt, et ipsum verbe-
raverunt, vulneraver' et malectraverunt, Ita quod de vita ejus
desperabatur, et quod I. C. et alij, &c. ipsum T. S. extra custod
dicti ballivi, adtunc et ibidem ceperunt et rescuss. et ad sui juris
ad largum ire permiserunt, contra voluntatem prædict. ballivi.
Ac idem T. S. seipsum extra custod dicti ballivi adtunc et ibi-
dem similiter rescussit, contra pacē domini regis nūc, &c. Et
postea idem T. non fuit inventus in balliva mea.

A. B. Ar'. Vic.

Retorna brevis de Restitution.

Virtute istius brevis mihi direct. (tali die et anno, &c. infra- *Restitutiō.*
script') tenementū infrascr. cum partiū reseisivi et infra-
nominat. T. et H. plenam possessionem et seisinam inde restitui
prout interius mihi præcipitur.

Sec hic antea, habere fac. seisinam, et habere fac. poss.

Retorna de Resummon.

Executio istius brevis patet in quadam scedula huic brevi *Resummon.*
annex'.

A. B. Ar'. Vic'.

Nomina Iur'. xxiiij. Milit' vnde in brevi huic scedula annex'
fit mentio :

R. M. de N. Ar'.

T. B. de M. Ar'. &c. (ad numerum xxiiij.)

'Quilibet Iur' pd. separatim Resum est per H. R. et M. N.
bonos summosi.

A. B. Ar'. Vic'.

Retorna Brevium.

Sanctuaris.

Ante adventum istius brevis mihi direct' *I. S.* infranominat' intravit sanctuariā sancti Petri Westm in com Midd, et in eodē com adhuc moratur, per quod corpus prædict' *I. S.* coram Iustic' infra script' ad diem et locum interius specificat' habere non possum prout, &c.

Upon a Capias, the sberife returned that the partie was ^{6.H. 4. 3.} ~~Uerger in the Church of Sarum, and abode within the precinct of the Church, and being a sanctuarie, he therefore returned, non est inventus, and it was holden to be no good returne, for that hee might haue serued this procelle in the Church.~~

Retorna de Scire Facias.

Scire facias.

Virtute istius brevis mihi directi, per A. B. & C. D. probos & legales homines de balliva mea, Scire feci infranominat', *I. S.* quod sit coram Iustic' a domini Regis, (vel coram dño b Rege; vel coram c Baron' dñi Regis) ad diem & locum infra script' ad ostend' et proponend' si quid pro se habeat, vel dicere sciat, quare, &c. (according to the matter contained in the writ.) prout mihi interius præcipitur.

a Com
Banco.
b Banco
Regis.
c Elche-
quer.

Note that the appearāce Coram	Iustic' Dñi Regis,	is in	The court of Com-
	Domino Rege,		mon Pleas.
	Baron' Dñi Regis,		The Kings bench,
	Dño Rege, in Can-		The Elchequer.
	cellaria,		The Chanerie.

Retorn' de Nihil, super Scire Fac'.

INfranominatus A. B. Nihil habet in balliva mea per quod ei Nihil. Scire facere possum, neque est inventus in eadem.

A. B. Ar. Vic'.

Virtute, &c. Scire feci infranominat' *I. S.* & *I. D.* quod sint coram Iustic' dñi regis infra script', ad diem et locum infraconten't', ad respondend' *R. H.* infranominat'.

Virtute, &c. Scire feci *T. A.* & *E.* vxori ejus infra script', (per *A. B.* & *C. D.*) Quod sint coram dño rege, ad diem infra script' ubicunq; &c. ad audiend' record', & processum, vnde istud breve facit mentionem; Et vltcrius ad faciend' & recipiend' (omnia & singula) prout istud breve exigit.

Ad audiēd.
Record.

Virtute,

Virtute &c. scire feci *W.B.* administrat' five executori bono- *Vari Exec.*
rum & catall' quæ fuer' *T.P.* infranominat' per *W.G. & G.R.* probos
& legales homines de ball' mea, essendi coram dño rege, (vel Ju-
stic') ad diem infranominat'. Neq; sunt plures administr' aliquotum
bonorū & catall' quæ fuerunt ejusdem *T.P.* in ball' mea, quibus
aut cui ad p'sens scire facere possum.

Virtute &c. scire feci *T.P.* infranominat' quod sit coram Just. *Aliter.*
infrascr', ad diē & locum infracentent' per *I.S. & R.G.* ad faciēd'
ea quæ istud breve in se exigit & requirit &c.

Virtute &c. scire feci *W.C.* militi infran quod sit coram dño *In Cancellar'*
rege in Cancellar' sua ad diem infracentent'. vbiq; tunc fuerit
in Anglia, ad ostendend' & pponend', put istud breve in se exi-
git & requirit, per *I.M. & W.D.* ppos & legales homines ball'
meæ, juxta form' hujus brevis.

Co. l. 16. a. Virtute brevis istius mihi direct' 12. die Aprilis, anno regni
dicti domini regis vicesimo supradict'. per *I.B.* gener' & *T.W.*
gener' probos & legales homines de balliva mea scire feci eis-
dem *Tho.P.* & *Marg.* essend' hic modo ad hunc diem, ad infor-
mand' dictum dominum regem & consilium suum, prout breve
prædict' in se exigit & requirit, ac prout per breve illud mihi
præcipitum fuit.

**In a Scire fac', It is a good returne that the partie is
dead.** Br. 125.

Upon a Scire fac', Two Nihils returned counterbailes
Scire feci. *See* Br. 101.

Returne de Scire fac' versus Clericū, vide hic fol.

Retorna brevis de seifina.

Virtute istius brevis mihi directi vicesimo die Octobris anno *Briefe de*
infrascript' habere feci infranominato *N.S.* plenar' seifin de *seifin.*
& in tenement' infraspec' cum pertinentijs prout interius mihi
præcipitur.

A.B. Armig. Vic'.

See plus in Retorn de habere fac' seifinan, hic fol. Et Re-
torn de Seifin in Dower.

**Note that in such cases, the partie which recouereth
Dower**

Retorna Brevium.

dothor &c. cannot enter, but must first haue seisin deliuered to them by the Sherife. Plo. 529.b.

And the sherife may put the partie in possession of seisin of house or land by a twig, clod, or the like.

Also if a man recouer rent, the sherife may put him in seisin thereof by parol, or by any parcell of the land out of which the rent is issuing &c. Fitz. 179.b.

The returne of a Significavit.

Significavit.

Virtute istius brevis mihi directi, capi corpus infranominat' A. B. cujus quidem corpus remanet in prifona domini regis castri sui C. sub salva custod' mea, donec Sanctæ Ecclesiæ tam de contēptu quam de injur' ei illat', ab eo fuer' satisfact', put istud breye in se exigit & requirit.

A. B. Armig. Vic'.

The returne of a Significavit with Proclamation.

Infranominat' A. B. non est inventus in balliva mea, sed virtute istius brevis mihi directi, in pleno comitatu meo tent' apud Castrum Canteb' in comitatu infrascript' decimo quinto die I. anno infrascript' publicè proclam' feci quod prædict' A. B. infra sex dies proximi post proclamationem illam, corpus suum reddat in forma infrascript' prout breve istud in se exigit & requirit.

A. B. Armig' Vic'.

Secunda superoneratione

By the Statute 13. E. 1. upon a writ de Secunda superoneratione pasturæ, the Sherife in presence of the parties being summoned (if they will come) shall inquire upon the second surcharge, which if it be found, it shall bee returned (before the Justices) vnder the seal of the sherife, and the scales of the Juroz.

Summons

Summons { De Assises, hic fol.
De Sessions del peace, hic fol.
Coram Iust. de foresta, hic fol.
In Assise, hic fol.
In Attaint hic fol.
Parliamenti &c. hic fol.
In Wast, hic fol.
See plus hic tit. proces.

Summons.

Retorn' de Tarde.

Istud breve adeo tarde mihi deliberat' fuit, Ita quod propter *Tarde.*
temporis brevitatem exequi non potui, prout istud breve in se
exigit & requirit.

A. B. Armig' Vic'.

But note that if the Sherife returneth *Tarde*, where
he hath sufficient time to serve the writ, hee shall bee pu-
nished by force of the Statute of Westmin. 2. cap. 39. See
hic fol.

Retorn' brevis orig. in transgress. si defend.
sit insufficiens.

Pleg. de prosequend' { I. D.
R. E.

Trespas.

Infranominat. H. B. & C. D. nihil habent in balliva mea per
quod attach. possunt, (or potest, if it bee but against one de-
fendant.)

And if there be moe defendants than two, then you must
name but one, & ceteri defend. infranominat', nihil habent in
balliva mea per quod attach. possunt.

Retorn'

Retorna Brevium.

Retorn' brevis ad Inquirend. de dampnis in transgress'.

Executio istius brevis patet in quadam inquisitione huic brevi annex'.

Cantebr.

Inquisitio &c. qui dicunt super sacramentū suum quod *W.B.* in dicto brevi nominat' sustinuit dampna occasione transgres. in eodem brevi spec' ad *xx.s.* & promissis & custagijs suis per ipsum circa sectam suam in illa parte apponit' *xx.s.* In cujus rei testimonium &c.

Retorn' de Venire fac'.

Venire fac'. **I**nfranoninat' *I.B.* nihil habet in balliva mea per quod potest *Nihil.* attachiari.

Virtute istius brevis mihi directi venire feci coram domino rege apud Westmonast. ad diem infracontent' *I.B.* sicut interius mihi præcipitur.

Nota sur ceo, si le defendant soit retorne Nihil al primes, dunque is- ser Capias, Alias, Pluries, & Exigent.

Mes si le defendant soit retorne sufficient, & fait defaut, dunque un Distringas ferra agard.

Venire fac' Iurator'.

Executio istius brevis patet in quadam pannella (or in quodam panello) huic brevi annex'.

A.B. Armig. vic'.

Iuratoꝝ inter *A.B.* quærent', & *C.D.* defend. in placito transgressionis.

Then write dothone the names of twentie foure Iuroꝝ thus,

A.W. de E. gener } & sic ad numerum 24.
E.C. de W. yeoman }

Quilibet Iuratoꝝ prædict. per se separatim *I.D.* attachiatus est per pleg. *R.R.*

A.B. Armig' vic'.

nohereas

37.H.6.f.13

where the parties shall admit a Visne, although there be none such, the sherife cannot returne that there is none such, but shall make his panell de corpore comitatus.

And yet in an appeale, the sherife returneth Iu^r de Visnet de D. and the new sherife returned vpon the Dist^r that there is no such visne, and it was holden that he might so do, 3.H. 6.fol. 58.

Ki.Retor^r 19.

Note that in a Venire facias Iurato^r no issues shall be returned; but otherwise in a Distring^r, and Habeas corpus, and yet if vpon a Distring^r Iurato^r the sherife shall returne no issues, and a full Iurie shall appeare, it seemeth to be no error. See hic postea Issues vpon Iurors.

Vpon a Venire facias 12. liberos &c. the sherife returned Venire feci, & non executio istius brevis: And also he returned but twelue (whereas he should haue returned foure and twentie) and for both these causes, he was caused to amend the same, 2.H. 7.8.Br. 84.

Retorn^r de Habeas corpor^r Iurato^r.

Executio istius brevis patet in quodam pannello huic brevi *Hab. corp^r Iurat^r.* confut^r, vel annex^r.

Iurato^r inter A.B. quærent^r, & C.D. defend. in placito debiti &c.

Then write downe the names of the Iuro^rs thus,

A.B. de S. gener^r }
C.D. de F. gen^r &c. } & sic ad numerum 24.

Quilibet Iurato^r prædict. per se separatim $\begin{cases} I.D. \\ manuapt^r est per R.R. \end{cases}$

In this writ there ought to be returned no issues; nor in a Decem, or Octo tales, there ought to be returned no manucaptors; And yet these things are vsed in diuers places, but are void, Kit. Ret. breuiū fol. 20.

Note that vpon a Habeas corpor^r Iu^r, the sherife ought to returne them attached, and not to returne quod habet corpora eorum. 2.H. 7.Br. 84.

Retorn^r

Retorna Brevium.

Retorn' Distring' Iurator'.

*Distring'
Iur'.*

Executio istius brevis patet in quodam pannello huic brevi annex'.

And then retorne oz set downe the names of the Jurors,
vt supra.

Manuaptores Iurat' præd. *S.I.D.*
& eorum cujuslibet. *R.R.*

Exitus eorum cujuslibet — — — x.s.

A.B. Armig. vic'.

Note that in a Distring' Iurat' per omnes terras &c. the Sherife ought to retorne issues *2.H.7.8.*

Note that in the first Venire fac' Iurat', it is not materfall *K.Ret' 109*
to set downe Manuaptores, for that by such maineprise,
you shall cause the Jurie to loose issues, which is not requi-
red at the first time.

In a Venire fac' the Sherife returned the names of twelue *2.H.7.8. Br. 84.*
onely, on the backe of the writ, and not in a scedule as the
use is: Also he returned Venire feci, and not Executio istius
brevis &c. And it was agreed by all the Justices of both
Benches, that they would not change the auncient course,
for the mischief which might follow thereon; for if twelue
onely shall be returned, no man shall haue a Jurie without a
Tales, if any bee challenged; and therefore they caused the
Sherife to amend the retorne, vpon paine of amerciamment,
and yet the writ is, Venire facias 12. liberos & legales ho-
mines &c.

Sur le Venire facias, forsque 23. sont retorne, & 12. de eux ap- Co. 5. 36. 37.
peare, & done leur verdict, ceo est error, vncore ceo est remedie per les
statutes de Jeofailes, scz. de 32. H. 8. & 18. Eliz.

Mes si sur le Venire facias nul retorne est indorse; ou que le vicont Co. 8. 162. & 163.
ne mit son nosme al retorne del Jurie; ou que le retorne del Jurie est per
le Coroner, ou doit estre per le vicont; ou e converso: ceux cas ne sont
remedie per aucun statute de Jeofailes, mes remaine nient amendable.

Upon a Habeas corpus Iuratorum, the Sherife may retorne *20.E. 4. 11. Br. 114.*
that some of them are dead, and it is good: And if a Distr,
oz Decem tales, shall goe out, the Sherife may retorne that
others of them are dead, and so vpon euerie writ.

The

The Sherife may returne Tarde, vpon the Distring' Ius Tarde.
rat' and vpon the Decem Tales; and then the Iurie shall
loose no issues, quod Nota. K. 20.

Ag. Quoad distringend' I. M. & alios Iuratores infra script',
essend' coram Iusticiarijs &c. die & loco infra script', vobis sig-
nifico, quod istud breve adeo Tarde mihi liberat' fuit, quod il-
lud propter temporis brevitatem exequi non possum ad præ-
sens, Sed de novo apposui decem tales, vel Octo tales, (vt prox.
sequent'.) prout in isto brevi mihi præcipitur &c. A.B.C.D.
E.F.&c.

Sed quoad decem tam milites quam alios probos & legales
homines de visnetto infra content' inter Iuratores infra content'
ponend', Executio istius brevis patet in quadam scedula huic
breui consut' &c.

Quoad distringend' R. L. & omnes alios Iurat' infra script' Aliter.
essendi coram Iustic' infra scriptis, ad diem & locum infracon-
tent'; Istud breve adeo tarde mihi deliberat' fuit, quod propter
temporis brevitatem executionem inde facere non potui : Sed
quoad apponend' Decem Tales executio inde patet in quodam
Pannello huic brevi consut'.

Retor' de habere fac' visum. Vide hic antea. fol. View.

Thel. 86.

Where a man (by his writ) demands a Carue of land,
the moe'tie thereof may bee put in view, and good. 6. E. 3.
fol.

11. E. 3. F.
Dower 63.

Where a man demands a house, and ten shillings rent,
if nothing bee put in view but the house, it is not good.
5. E. 3.

If a man demands a Manor, and the tenements put in
view are but a house, and a Carue of land of another name
than the Manor is, it is not good. 6. E. 3. Fitz. Brief. 727.

Although there be more put in view, than is demanded,
yet it seemeth good. 18. E. 3. 22. Fitz. Brief. 357. but quere,
for the contrary is holden, 19. Ed. 3. f. Br. 468. 20. Ed. 3. fol.
Fitz. Breif. 373. 375.

Fitz. 34. 35.

Note that vpon the writ De vi Laica Remouenda, *vi Laica.*
the Sherife ought not to remouue the Incumbent, who *remouenda.*
is in possession of the Church, bee in possession of right,
or of wrong; for the Sherife is onely to remouue the
force, and is to suffer the Incumbent to enjoy his posses-
sion. And if the Sherife will remoue, or goeth about
to remoue the Incumbent who is in possession, the Incum-
bent

Retorna Brevium.

Retorn' brevis ad Inquirend. de dampnis in transgress'.

Executio istius brevis patet in quadam inquisitione huic brevi annex'.

Cantebr.

Inquisitio &c. qui dicunt super sacramentū suum quod *W.B.* in dicto brevi nominat' sustinuit dampna occasione transgres. in eodem brevi spec' ad *xx.s.* & pro misis & custagijs suis per ipsum circa sectam suam in illa parte apponit' *xx.s.* In cujus rei testimonium &c.

Retorn' de Venire fac'.

Venire fac'. **I**nfranoninat' *I.B.* nihil habet in balliva mea per quod potest *Nihil.* attachiari.

Virtute istius brevis mihi directi venire feci coram domino rege apud Westmonast. ad diem infracontent' *I.B.* sicut interius mihi præcipitur.

Nota sur ceo, si le defendant soit retorne Nihil al primes, donque is- ser Capias, Alias, Pluries, & Exigent.

Mes si le defendant soit retorne sufficient, & fait defauls, donque un Distringas serra agard.

Venire fac' Iurator'.

Executio istius brevis patet in quadam pannella (or in quodam panello) huic brevi annex'.

A.B. Armig. vic'.

Iurator' inter *A.B.* quærent', & *C.D.* defend. in placito transgressionis.

Then write doone the names of twentie four Jurors thus,

A.W. de E. gener' } & sic ad numerum 24.
E.C. de W. yeoman }

Quilibet Iurator' prædict. per se separatim *I.D.* attachiatus est per pleg. *R.R.*

A.B. Armig. vic'.

noheras

37.H.6.f.12 Where the parties shall admit a Visne, although there be none such, the Sherife cannot returnethat there is none such, but shall make his panell de corpore comitatus.

And yet in an appeale, the Sherife returneth Iur de Visnet de D. and the new Sherife returned vpon the Distt that there is no such visne, and it was holden that he might so do. 3.H. 6.fol. 58.

Ki Retof 19. Note that in a Venire facias Iuratoꝝ no issues shall be returned, but otherwise in a Distring', and Habeas corpus, and yet if vpon a Distring' Iuratoꝝ the Sherife shall returne no issues, and a full Iurie shall appeare, it seemeth to be no error. See hic postea Issues vpon Iurors.

Vpon a Venire facias 12. liberos &c. the Sherife returned Venire feci, & non executio istius brevis: And also he returned but twelue (whereas he should haue returned foure and twentie) and for both these causes, he was caused to amend the same. 2.H. 7.8.Br.84.

Retorn' de Habeas corpor' Iuratoꝝ.

Executio istius brevis patet in quodam pannello huic breui *Hab. corp. Iurat.* confut', vel annex'.

Iuratoꝝ inter A.B. quærent', & C.D. defend. in placito debiti &c.

Then write downe the names of the Iuroꝝ thus,

A.B. de S. gener }
C.D. de F. gen &c. } & sic ad numerum 24.

Quilibet Iuratoꝝ prædict. per se separatim § I.D.
manu capt' est per § R.R.

In this writ there ought to be returned no issues; nor in a Decem, or Octo. tales, there ought to be returned no manucaptors; And yet these things are vsed in diuers places, but are void. Kit. Ret. breuiū fol. 20.

Note that vpon a Habeas corpor' Iur', the Sherife ought to returne them attached, and not to returne quod habet corpora eorum. 2.H. 7.Br.84.

Retorn'

Retorna Brevium.

Retorn' Distring' Iurator'.

*Distring'
Iur'.*

Executio istius brevis patet in quodam pannello huic brevi annex'.

And then retorne or set downe the names of the Jurors,
vt supra.

Manu captos Iurat' præd. § I. D.
& eorum cujullibet. § R. R.

Exitus eorum cujullibet — — x. s.

A. B. Armig. vic.

Note that in a Distring' Iurat' per omnes terras &c. the Sherife ought to retorne issues &c. 2. H. 7. 8.

Note that in the first Venire fac' Iurat' it is not materfall to set downe Manu captos, for that by such mainepprise, you shall cause the Jurie to loose issues, which is not required at the first time. K. Ret' 109

In a Venire fac' the Sherife returned the names of twelue onely, on the backe of the writ, and not in a scedule as the vse is: Also he returned Venire feci, and not Executio istius brevis &c. And it was agreed by all the Justices of both Benches, that they would not change the auncient course, for the mischiefe which might follow thereon; for if twelue onely shall be returned, no man shall haue a Jurie without a Tales, if any bee challenged; and therefore they caused the Sherife to amend the retorne, vpon paine of amerciament, and yet the writ is, Venire facias 12. liberos & legales homines &c. 2. H. 7. 8.
Br. 84.

Sur le Venire facias, forsque 23. sont retorne, & 12. de eux appare, & done leur verdict, ceo est error, vncore ceo est remedie per les statutes de Jeofailes, scz. de 32. H. 8. & 18. Eliz. Co. 5. 36. B.
37.

Mes si sur le Venire facias nul retorne est indorse; ou que le vicont ne mit son nosme al retorne del Jurie; ou que le retorne del Juris est per le Coroner, ou doit estre per le vicont; ou e converso: ceux cases ne sont remedie per aucun statute de Jeofailes, mes remaine nient amendable. Co. 8. 162.
& 163.

Vpon a Habeas corpus Iuratorum, the Sherife may retorne that some of them are dead, and it is good: And if a Distr, or Decem tales, shall goe out, the Sherife may retorne that others of them are dead, and so vpon euerie writ. 20. E. 4. 11.
Br. 114.

The

The Sherife may retorne Tarde, upon the Distring' Jus Tarde.
rat' and upon the Decem Tales; and then the Jurie shall
loose no issues, quod Nota. K. 20.

As, Quoad distringend' I. M. & alios Iuratores infra script',
essend' coram Iusticiarijs &c. die & loco infra script', vobis sig-
nifico, quod istud breve adeo Tarde mihi liberat' fuit, quod il-
lud propter temporis brevitatem exequi non possum ad præ-
sens, Sed de novo apposui decem tales, vel Octo tales, (vt prox,
sequent'.) prout in isto brevi mihi præcipitur &c. A.B.C.D.
E.F.&c.

Sed quoad decem tam milites quam alios probos & legales
 homines de visnetto infra content' inter Iuratores infracontent'
 ponend', Executio istius brevis patet in quadam scedula huic
 brevi consut' &c.

Quoad distringend' R. L. & omnes alios Iurat' infra script' *Aliter.*
 essendi coram Iustic' infra scriptis, ad diem & locum infracon-
 tent', Istud breve adeo tarde mihi deliberat' fuit, quod propter
 temporis brevitatem executionem inde facere non potui : Sed
 quoad apponend' Decem Tales executio inde patet in quadam
 Panello huic brevi consut'.

Retor' de habere fac' visum. Vide hic antea. fol. *View.*

Thel. 386.

Where a man (by his writ) demands a Carue of land,
the moepte thereof may bee put in view, and good. 6. E. 3.
fol.

*11. E. 3. F.
 Dower 63.*

Where a man demands a house, and ten shillings rent,
if nothing bee put in view but the house, it is not good.
5. E. 3.

If a man demands a Manor, and the tenements put in
view are but a house, and a Carue of land of another name
than the Manor is, it is not good. 6. E. 3. Fitz. Brief. 727.

Although there be more put in view, than is demanded,
yet it seemeth good. 18. E. 3. 22. Fitz. Brief. 357. but quere,
for the contrary is holden, 19. Ed. 3. f. Br. 468. 20. Ed. 3. fol.
Fitz. Breif. 373. 375.

Fitz. 34 55.

Note that upon the writ De vi Laica Removenda, *Vs Laica.*
the Sherife ought not to remouue the Incumbent, who *remouenda.*
is in possession of the Church, bee in possession of right,
or of wrong; for the Sherife is onely to remouue the
force, and is to suffer the Incumbent to enjoy his posses-
sion. And if the Sherife will remoue, or goeth about
to remoue the Incumbent who is in possession, the Incum-
vent

Retorna Brevium.

Retorn' Distring' Iurator'.

*Distring'
Iur'.*

Executio istius brevis patet in quodam pannello huic brevi annex'.

And then retorne oz set do done the names of the Jurors,
vt supra.

Manu captiores Iurat' præd. *S. I. D.*
& eorum cujullibet. *R. R.*

Exitus eorum cujullibet — — x. s.

A. B. Armig. vic.

Note that in a Distring' Iurat' per omnes terras &c. the Sherife ought to retorne issues *2c. 2. H. 7. 8.*

Note that in the first Venire fac' Iurat', it is not materfall to set do done Manu captiores, for that by such mainepzise, you shall cause the Jurie to loose issues, which is not required at the first time. *K. Ret' 109*

In a Venire fac' the Sherife returned the names of twelue onely, on the backe of the writ, and not in a scedule as the vse is: Also he returned Venire feci, and not Executio istius brevis &c. And it was agreed by all the Justices of both Benches, that they would not change the auncient course, for the mischiefe which might follow thereon; for if twelue onely shall be returned, no man shall haue a Jurie without a Tales, if any bee challenged; and therefore they caused the Sherife to amend the retorne, vpon paine of amerciament, and yet the writ is, Venire facias 12. liberos & legales homines &c. *2 H. 7. 8. Br. 84.*

Sur le Venire facias, lorsque 23. sont retorne, & 12. de eux appaire, & done leur verdict, ceo est error, vncore ceo est remedie per les statutes de Jeofailes, scz. de 32. H. 8. & 18. Eliz. *Co. 5. 36. 37.*

Mes si sur le Venire facias nul retorne est indorse; ou que le vicont ne mit son nosme al retorne del Jurie; ou que le retorne del Juris est per le Coroner, ou doit estre per le vicont; ou e converso: ceux cases ne sont remedie per aucun statute de Jeofailes, mes remaine nient amendable. *Co. 8. 162. & 163.*

Vpon a Habeas corpus Iuratorum, the Sherife may retorne that some of them are dead, and it is good: And if a Distr, oz Decem tales, shall goe out, the Sherife may retorne that others of them are dead, and so vpon euerie writ. *20. E. 4. 11. Br. 114.*

The

The Sherife may returne Carde, vpon the Distring' Iur *Tarde.*
rat' and vpon the Decem Tales, and then the Iurie shall
loose no issues, quod Nota. K. 20.

As, Quoad distringend' I. M. & alios Iuratores infra script',
essend' coram Iusticiarijs &c. die & loco infra script', vobis sig-
nifico, quod istud breve adeo Tarde mihi liberat' fuit, quod il-
lud propter temporis brevitatem exequi non possum ad præs-
sens, Sed de novo apposui decem tales, vel Octo tales, (vt prox.
sequent'.) prout in isto brevi mihi præcipitur &c. A.B.C.D.
E.F.&c.

Sed quoad decem tam milites quam alios probos & legales
 homines de visnetto infra content' inter Iuratores infracontent'
 ponend', Executio istius brevis patet in quadam scedula huic
 brevi consut' &c.

Quoad distringend. R. L. & omnes alios Iurat' infra script' *Aliter.*
 essendi coram Iustic' infra scriptis, ad diem & locum infracon-
 tent', Istud breve adeo tarde mihi deliberat' fuit, quod propter
 temporis brevitatem executionem inde facere non potui : Sed
 quoad apponend' Decem Tales executio inde pater in quodam
 Pannello huic brevi consut'.

Retor de habere fac' visum. Vide hic antea. fol. *Vier.*

Thel. 86.

Where a man (by his writ) demands a Carue of land,
the moepte thereof may bee put in view, and good. 6. E. 3.
fol.

*11. E. 3. F.
 Dower 63.*

Where a man demands a house, and ten shillings rent,
if nothing bee put in view but the house, it is not good.
5. E. 3.

If a man demands a Manor, and the tenements put in
view are but a house, and a Carue of land of another name
than the Manor is, it is not good. 6. E. 3. Fitz. Brief. 727.

Although there be more put in view, than is demanded,
yet it seemeth good. 18. E. 3. 22. Fitz. Brief. 357. but quere,
for the contrary is holden, 19. Ed. 3. f. Br. 468. 20. Ed. 3. fol.
Fitz. Breif. 373. 375.

Fitz. 34 55.

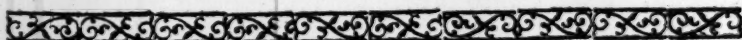
Note that vpon the writ De vi Laica Remouenda, *Vi Laica.*
the Sherife ought not to remooue the Incumbent, who *remouenda.*
is in possession of the Church, bee in possession of right,
or of wrong; for the Sherife is onely to remooue the
force, and is to suffer the Incumbent to enjoy his posses-
sion. And if the Sherife will remoue, or goeth about
to remoue the Incumbent who is in possession, the Incum-
vent

Retorna Brevium.

bent shall haue a writ directed to the Sherife, commanding him that he shall not remoue him &c. and if he hath remoued him, that then he without delay shall make him amends; and if the Sherife shall not do this, the partie may haue an Alias, and Pluries, and an Attachment against the Sherife.

Vilarie.

Retorne de Vilarie. Vide Retorne de briefe de Exigent.



Wast.

Retorn' de summons in Wasto.

Pleg' de prosequend' $\left\{ \begin{array}{l} I. D. \\ R. Ro. \end{array} \right.$

Summoñ infranom' I.S. $\left\{ \begin{array}{l} I. P. \\ W.F. \end{array} \right.$

Proclam'.

ET ulterius ego A.B. armig' vic'comit' infrascript' Iustic' dñi regis infrascript' certifico, quod post suñ prædict', scz. decimo die A.anno infrascript' existent' die dominico immediate post diuinum servic' in Ecclesia parochiali de B.infraspec', nulla prædicat' adtunc ibidem existē, apud maxime vsuale ostium Ecclesiæ parochia' illius, infra quam quidem parochiam testit' infrascr', jacent & existunt, proclam' feci suñ prædict', secundum formam statuti in hujusmodi casu ædit' & provisi.

A.B.Armig.vic'.

Retorn' de breve de Wasto.

Executio istius brevis patet in quadam Inquisitione huic breui annex'.

Inquisitio &c. qui dicunt super sacramentum suum prædictum quod H.A.& I. vxor ejus in dicto breui nominat', fecer' vastum, venditionem, & destructionem in omnibus in eodem brevispec', viz. permittend' vnam aulam præcij 40.s.duas cameras præcij 3.1. & vnū stabulū præcij 20.s. esse discoopertum pro defect' reparationi earundem domorum & per tempestates pluviales super ill' discedent' devenes putrid' & corrupt' &c.

contra

Retorna Brevium.

110

contra formam provisionis in eodem brevi content'; Et ulterius
Iur' præd' super sacramentum suum prædict' dicunt, quod prædict'
A. & I. aliud neque plus vastum, vendicionem, seu destruc-
tionem fecer' in domibus prædictis. In cuius rei testimonium
&c. ut supra.

A. B. Armig' vic'.

Executio istius brevis patet in quadam inquisitione huic
brevi annex'.

Inquisitio indentata capta apud G. (quod est locum vastatū) *Aliter.*
in comitatu C. (tali die & anno) coram W. L. vic' com' præd', vir-
tute cuiusdam brevis domini regis eidem vic' inde dirigend' per
sacrament' xij. Iuratores, qui dicunt super sacrament' suum, q' R. M.
in dicto brevi nominat', fecit vastum & destructionē in bosco in
quo in breve præd' fit mentio, & in bosco præd' succidit xx. quer-
cos præcij cujuslibet xx. d. part' inde vendend', & partem inde
asportand', in exheredationem W. F. infra. & contra form' pro-
visionis in eodem brevi specificat', Et dicunt super sacrum suū
q' præd' R. nullū majus vastum in bosco præd' fecit, p'ur eis aliquo
modo constare potest, In cuius rei &c.

Virtute istius brevis mihi directi, accessi ad locum vastatum *Aliter.*
in brevi isto content', prout interius mihi præcipitur, Et residuū
execut' istius brevis patet in quadam inquisitione huic brevi
annex'.

Inquisitio indentata capta apud F. in comitatu C. tali die &
anno, coram A. B. vic' com' prædict', virtute cuiusdam brevis
domini regis ei directi, & huic inquisitioni annex' per sacramen-
tum A. B. &c. (ad numerū xij.) qui dicunt super sacrament' suū,
quod I. R. in brevi præd' nominat' fecit vastū, venditionē, & destru-
ctionē, in ten't, terris, & boscis, in brevi præd' spec', viz. in permit-
tend' aulam &c. in brevi præd' spec' discoopert', per quod grossum
maeremium earundē domos per tempest' pluviales super illas
discendentes, putrid' devenit &c.

27. H. 8. 13.
Br. 2.

**In a writ to enquire of waste assigned in S. it is no
good returne for the sherife to say, quod accessit ad S. but hee
must say, quod accessit ad locū vastatum.**

40. E. 3. 20.
Br. 17.

**In a writ of waste, the sherife returned, q' cepit Inquisiti-
onē die Sabbati proximi apud R. And for that he did not shew
what Saturday (it was in certaine,) And also for that hee
said not, Quod ivit ad locum vastatū, prout breve exigit, there-
fore the sherife was amerced, and a new writ awarded &c.**

U 2

The

Retorna Brevium.

The Sherife (in a writ to enquire of wast) ought to go to everie place wasted, lying in severall townes, and there ought to make inquisition, and also ought to find the wast in certaine, scz. succidendo, so many oakes, & hujusmodi ad valenc' &c. Et permittendo vnam aulam & vnam cameram &c. & sic de singulis, and also must find the value. See Br. Wast 17 & Fitz. Wast. 51.

34.H.6.41.
Br.16.

And yet where the wast is assigned in two or mo towne, the Sherife may cause the Jurie to go and see the wast in each towne, and may make his inquisition in one of the towne onely, or in any other towne twentie leagues from the place wasted, as it seemeth by the opinions of Thirne and Hanke, quare.

12.H.4.
Fr. Wast 62.
Br. Wast 68.
Br. Rediff. 5.
Co. 8.152.

The Sherife in this writ (to enquire of wast, which was assigned in two or three towne) returneth, quod virtute brevis prædict' in villa infra content' capit Inquisition, or he returneth Inquisitio capta apud A. (being one of the towne) and it appeareth not whether he (or the Jurie) came to all the towne, and therefore such returnes are not good. Br. Wast. 17.

For in such cases the Sherife ought to make his returne, Quod virtute brevis &c. Accessit ad loca, or tenementa vastata, scilicet, to all the towne (in which the wast was assigned,) And at A. (being one of the towne) fecit Inquisitionem &c.

34.H.6.
Br. Wast 17.
Fitz. Wast 55

Or the Sherife may returne, quod accessit ad ambas villas &c. and that hee caused the Jurie to goe and see the places wasted; but he may returne the Inquisition to be taken at one place only. Br. Retor 39.

Note where the Sherife shall doe his office well in one towne, and not in the other towne (in this writ) a new writ must be awarded, and all shall be enquired of de novo, for all the Inquisition must be made all by one and the same Enquest, and all at one time, by the opinion of Thirne. 12.H.4. fo. 3. Br. Retor 39. & Wast 68.

It seemeth by mast. Fitzh. that the Sherife in this writ to enquire of wast, may enquire of wast by the oath of sixe or eight persons, and is not bound to take twelve persons, for that this writ is awarded by office of the court, to enquire &c. Fitz. 107.c.

And yet by the statute made 13.E.1.cap.14. in an action of wast, first a writ of Summons shall be awarded, and if the partie (complained of, or against whom the writ is brought) come not in and appeare upon the summons, hee shall

Westm 1.
cap.14.

See Fitz.
Wast 45.
51.62.

31. H. 4.
Br. Proces
37. & Off.
cer 34.

shall be attached, and after the attachment hee shall be distreyned, And if he come not in after the distresse, the Sherife shall be commaunded that in his proper person, he taking with him 12. &c. shall goe to the place wasted, and shall enquire of the waste done, and shall returne the Inquisition, and after the Inquisition returned, Judgement shall be given &c.

Note that by this statute the Sherife is made both a Judge and Officer, quod accedat ad locum vastatum &c. And therefore in a writ to enquire of wast, directed to the Sherife of land &c. within a franchise, the Sherife ought himselfe to enter into the franchise, & to execute this writ himselfe and if therein he shall retorne Mandavi ballivo &c. he shall be amerced.

7. H. 7. 4.
Br. Officer
42.

And if he shall not enter the franchise and execute and serve this writ himselfe, but by the bailife of the franchise, it is erroneous; And yet if the Sherife shall returne, quod accessit ad terram, the other cannot assigne this for error, & non accessit ad terram juxta returnum suum, for that he cannot contradict the record.

Dyer 304.

Upon a Nihil dicit, in wast a writ went out commanding the Sherife, quod in propria persona sua accedat ad terram vastat' to enquire of the damages, and it was holden good (and not to enquire of the wast, for that was confessed) And here it is not necessarie that the Sherife should goe thither in person, according to the statute of Westm 2. for that is onely in vasto inquirendo, where the Defendant maketh default at the distresse.

Retorna de Withernam.

Virtute istius brevis, Capi duas Ollas erreas, duas patellas erreas &c. de bonis et cattallis I. H. in isto brevi nominat' in withernam, et ea W. B. infranominat' deliberari feci, habend' eidē W. B. quousque p'd I. B. cattall' p'rad' W. B. deliberaſ voluer', prout breve istud in se exigit et requirit: Et ulterius vobis certifico, quod p'rad' I. H. in isto brevi nomin' null' habet alia bona neque cattalla quę in Withernam capi possint, aut per quā attach. potest, juxta tenorem hujus brevis.

Withernam.

Virtute &c. capi in withernam apud D. in com' infras. 2. vacas &c. de auerij infranominat' I. D. Et duas vacas de auerij R. T. infranominat', Quę quidem aueria p'rad' abinde fugere,

Retorna Brevium.

& duci feci in quoddam locum apud S. in Com'. prædict. salvo & secur' ibidem custodiend', secund' exigent' istius brevis, ubi averia prædict. incumbent, Et prædict. I.H. & R. T. nulla habent plu', siue alia averia ad præsens, in balliva mea, quo vlllo modo in Witherham capere possum, prout interius mihi præcipitur.

Virtute istius brevis capi duas vaccas, & duas boviculas, de averijs infranom' R.D. & duas vaccas, & duas boviculas, de averijs T.L. quos deliberari feci I.C. infranom', salvo & secure custodiend', quousque alia averia infra specificat' ipsius I.C. prius capt', & ad loca mihi ignota transmissa, deliberare possum, prout interius mihi præcipitur.

Infrascript' I.H. nulla habet averia in balliva mea quæ in Witherham capere possum, secundum exigentiam hujus brevis.

Withernam. In a Repl. the Sherife returned, Averia Elongata, wherupon there went out a Withernam, and the Sherife returned, Quod non habet bona seu catalla infra &c. Nec est inventus in eadem, And thereupon a Capias went out, and the Sherife returned Capi corpus, & quod languidus est in prisona, and thereupon went out a duces tecum, and the Sherife brought the partie into the Court &c. Br. 100.

Sur le Withernam agard in le County, si le bailife retourne, que l'auter party nad riens &c. il avera Alias & Pluries, & sic infinite, Et nul auter remedyl. Fitz. 74.c.

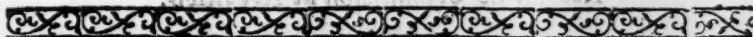
Mes sur Withernam retourne in Bank le Roy, ou Common Bank, si le vicount retourne que le party n'aver riens &c. il avera Capias agard vers luy, & exigent, & proces, de wllary. Fitz. 74.d.

If a Plea of Withernam be in the County (by pleynt be- fore the Sherife, without the Kings writ) and the Sherife commaundeth or sendeth to the bailife of a franchise, to make delivrance or execution of the writ, and the bailife of the franchise, doth nothing therein, Then the Sherife ex officio suo, (without any writ) may enter into the franchise or liberty, and make delivrance of the cattle, and this the Sherife may doe by force of the statutes made 52. Hen. 3. cap. 21. & Westmin. 1. cap. 17.

See plus hic antea titulo Repleg'.

Register 32
b. Fitz. 68.f.

Returne



*Retorne of Commissions, Writs, and Proceſſe
out of the Chancerie.*

Virtute, &c. omnia breviam mihi deliberat' seu deliberad', co- *Adiournmēt.*
ram Iustic' infraſcript', apud Westm' in Octab' Sancti *Hall*
returnabit' ſive returni, habeo coram Iustic' infraſcript', apud
Westm' die, &c. vna cū omnibus executionibus eorundē. Et vi-
terius ad com' meum tent' apud Canteb' (tali die et anno) pub-
lice proclam' feci, q' partes in eiſdem brevibus nominat', dies
ſuos coram Iustic' apud Westm', ad præfat' terminū conserva-
rent, prout iſtud breve, &c.

Certiorare.

Virtute, &c. Omnia et ſingula indictamenta R. B. infranomi- *Certiorare.*
nat', coram dño rege vbicunq' fuerit in Anglia, ad diem infra-
content' mitto in quadam ſedula huic brevi conſut'.

Certior' de Certifier Stats.

FIG. 144. G.

*Que il ad auterſois certifie ceo in le Chancery devant ceſt temps, Certior' de
come appiert per le Inrollment fait devant le maior, &c. ceſt bon Re- Certifier
turne. Stats.*

Certiorare ſuper Protection'.

Virtute iſtius brevis domini regis infraſcr' in Cancellar' ſua, *Certiorare
ſuper Pro-
tection'.*
ſub ſigillo meo diſtincte et apperte certifico, q' Wil'. T. infranom'
ſub ſalvo cuſtod', vittellac' et tuicione villæ caſtri Marchiar' dñi
regis Callic', in obſequio ejuſdem domini regis in S. prædict'
conſanguinij ſui W. D. locum tenent' ſui generali villæ Caſtri
ac Marchiarū prædict' juxta formam domini regis litterarum
patent', per quas eodem domino rege præfat' W. T. in protectionē
et deſenſionem ſuam nuper ſuſcæpit, non moratur, ſed moram
trahit in Civitate London proprijs negotijs ſuis intend', &c.

Retorn'

Retorna Brevium.

Retorn' de Commission de Rebellion.

*Commissio
de Rebell.*

Domino Regi certifico quod tempore receptionis istius Cō-
missionis, mihi et al' direct', infranominat' W.W. capt' et ar-
restat' fuit per W.S. Mil' Vic' com' C. virtute diuersorum bre-
vium eidem Vic' direct' & Gaolæ domini regis castri sui C. per
eundem Vic' commissus fuit, in qua quidem Gaola ego prefat'
I.W. præfat' W.W. virtute istius commissionis attachiari feci,
prout interius mihi præcipitur: sed corpus ejus ad diem et locū
infracontent' habere non possum quia idem W. in eadem Gaola
sub salvo custod' dicti vic' ob diversis alijs causis ibid' detinetur.

A.B. Commission.

*Dedimus po-
test.*

Virtute, &c. domini regis in Cancellariā suam certifico, quod
A.B. infranominat' coram nobis sacrament' prestitit corporale,
quod litteræ patent' (vnde infra fit mentio) ad manus infrano-
minat' C.D. testatoris sui devenerunt; Sed per sacrament' suum
dicit quod nihil de articulis & alijs circumstant' in eisdem lite-
ris patent' specificat', coram se invent' fuit.

Responsum H.L. & I.D. Commis's.

*Retorn' dun
Commissio.*

Virtute istius commissionis nobis directi, cæpimus responsum
T.D. infranominat' super sacrament' dei Evangelium, quod om-
nia in eadem responsione content' sunt vera, Quæ quidem re-
sponsio sic capta, est huic commissioni annex' vna cum billa no-
bis similiter in eadem direct', Et omnia alia quæ in eadem com-
missione content', sive ad eandem pertinent, fieri fecimus secun-
dum effectum et tenorem ejusdem, prout interius nobis præ-
cipitur.

The Returne of a Dedimus potestatem to take the Oath of a Sherife.

Virtute istius brevis nobis directi tali die et anni, &c. infrascr' See plus
hlc fol.
recepimus sacram' infranominat' A.B. Vic' com' C. de offi-
cio illo bene et fideliter faciend' juxta formam cujusdam sce-
dulae præsentibus annex' prout interius nobis præcipitur: Ac
prout breve istud in se exigit et requirit.

W.S. et } Commiss.
B. T. }

De

Retorna Brevium.

113

De Eligend' Coronator.
Milites Parliamenti.
Burgenses Parliamenti.
Viridar' Foresta. **See** hic antea.

Ante adventum istius brevis, et ante aliquam executionem *Ne Exeat Regnu.*
ejusdem A.B.C.D.E.F.&c. venerunt coram me I. D. Vicecomite S. et manucaperunt coram me prefat' Vicecom' pro L. M. videlicet quilibet manucaptorum predict' sub poena decem librarum, q' idem L. citra crastinum animarum proximum futur', versus partes transmarinas, ad aliqua dicti regis aut aliquibus de populis dicti domini regis prejudicial' sive dampnosa ibidem prosequenda, seu attemptanda se non divertet, Nec quicquam ibidem prosequatur, q' in dicti domini regis, seu populi sui prejudicium vel dampnum, aut stat' regni nostri Anglie evertionem cedere valeat, nec aliquem vel aliquos illuc mitter' ex hac causa: Quam quidem summam decem librarum iidem manucaptore concesserunt, et quilibet eorum per se concessit de terris et cattallis suis ad opus dicti domini regis levar', si idem L. aliquid contra formam manucap' predict' fecerit, seu fieri fecerit, vel attemptaver' quoquo modo, Et hac est tenor securitatis vnde interius fit mentio, Quam dicto domino regi in Cancell' &c. ad diem, &c. mitto.

Retor' super breve de Ordine Milir' recipiend': **See** hic antea.

Retor' de breve de Præmunire: **See** hic antea. *Præmunire.*

Retorn' de Proclama' extra Cancellar'.

Virtute istius brevis mihi directi publice proclamari feci infra *Proclama'.*
ballivam meam quod infranominat H. B. sub poena legian-
cie suæ coram domino rege in Cancellar' sua infrascript', ad
diem infracenten compareat pro' interius mihi præcipitur:
Nec non dicto domino Regi certifico q' infranom H. B. non est in-
ventus in balliva mea.

A.B.Ar.Vic.

Retorn

Retorna Brevium.

Retorn' de Recog' extra Cancellar'.

Recog'.

EXecutio istius brevis patet in quadam Inquisitione huic bre-
vi annex'.

Inquisit' Indentat' &c. (vt ante fol) Qui dicunt super sacra-
ment' suū, q' E. M. in brevi prædict' nominat' die captionis huius
Inquisit' fuit possessionat' de diversis bonis et cattallis subse-
quen', viz. de frument' vocat' Rye, ad valenc' x. s. de hordio ad va-
lenc' &c. et de quibusdam vtensilijs vocat' **houhold stufte** ad
valenc' &c. Quæ quidem bona et cattalla ego præfat' vic' liberari
feci præfat' R. per præciū p'd, prout per breve prædict' mihi præ-
cipitur; Et vterius Iur' p'd super sacram' suū p'd dicunt, quod
p'd E. die recogn', deb' in eodem brevi specific', seu vnquam
postea nulla alia sive plur' habuit bona aut cattall' terr', neque
tenementa, in com' prædict', quæ R. W. in eodem brevi nomi-
nat' liber' fac' possum. In cuius rei testimonium, &c. vt antea.

A. B. Ar'. Vic'.

Retorn' securitatis pacis.

Securit' pacis.

EGO I. B. vnus Iustic' domini regis in com' C. de pace con-
servanda assign' mitto coram domino rege in Cancellariam
suam, tenorem securitatis pacis, de qua in dicto brevi fit mentio,
sub sigillo meo, prout istud breve in se exigit et requirit, quæ
quidem securitas huic brevi est confuta.

Retorn' de supplicavit.

Supplicavit.

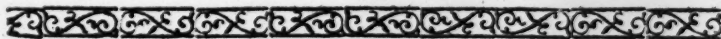
EGO I. D. miles vic' com' infrascript', dñō regi in Cancellar'
sua certifico, q' ante adventum istius brevis A. B. infranomi-
nat' capt' fuit in balliva mea, et in prisione dñi regis ibidē sub cu-
stodia mea detent', virtute cuiusdam alterius brevis huic brevi
confut', * pro quo quidē, præfatus A. B. ante adventum istius
brevis traditus fuit in balliva quibusdam B. B. C. D. E. F. & H. P.
qui manucaperūt et quilibet eorū manucapit per se pro præfat'
A. B. sub pœna x. li. quod ipse dampnū vel malū aliquod H. P.
in dicto brevi de supplicavit spec' infra talem diem proximū fu-
turum non fac', nec fieri procurabit quovismodo, Quas quidem
x. li. præfat' manucaptor' concesserunt, et quilibet eorum per se
concessit

* Or p qui-
bus quidem
quæstio de
minis, præ-
fatus, &c.

concessit de terris et cattallis suis et cujuslibet eorum, ad opus dicti dñi regis levare, si dampnum vel malum aliquod eidem *H.P.* per præfat' *A.B.* aut per procuracionem suam interim eveniet villo modo, &c. Et hæc est secur' pacis quæ præfat' *A.B.* coram me invenit, &c.

Sub qua quidem balliva, præfatus *A.B.* permissus fuit ire ad *Aliar.* largi, extra prisonã prædictã, et postea ad custodiam meam non revenit, qua propter corpus prædicti *A.B.* coram dño rege ad diem et locum infracontentos habere non possum.

Ego, &c. Dño regi in Cancellaria sua certifico, quod *A.B.* in *Aliar.* franominatus nullã mihi invenit securitatem pacis de qua interius fit mentio, sed in prisona dñi Regis sub custodia mea ad præsens residet.



Retorne de Proces, extra Scaccarium.

Retorna de Capias, extra Scaccarium.



Virtute istius brevis mihi directi Baroni infra script' cer- *Capiã cor-*
tifico, quod cepi corpus infranominat' *I.R.* cujus cor- *pui, quã terr'.*
pus coram dictis Baronibus parat' habeo ad diem in-
fracontent': Necnon vicesimo die I. anno, &c. in-
frascript' cepi in manus dicti dñi regis, nomine districtionis, cert'
terr' et tenementa infranominat' *I.R.* jacen' et existent' in B.
Annui Valor' C.s. prout istud breve in se exigit et requirit.

A.B. Ar'. Vic'.

Aliar.

Virtute istius brevis mihi directi, Baroni infra script' certifico, *Capi Ma-*
q. vicesimo die Marcij, anno, &c. infra script' cepi in manus dñi *netinum.*
regis infrascript' Maneriũ infra script' cum pertinent', prout in-
terius mihi præcipitur: Et si sit cum Inquisitione pro anni valo-
re, tunc sic breve prædict' retorni est:

Residuum executionis istius brevis patet in quadam Inquisi-
tione huic brevi annex'.

A.B. Armig' vic'.

Inqui-

Retorne de Proces,

Inquisit.

Inquisitio Indentat' capra apud C. in comitat' prædict' secundo die Martij Anno &c. Coram A.B. Ar' vicec' Com' prædict' virtute brevis dñi Regis mihi directi & huic Inquisitioni annex' per sacram A.B.C.D. &c. (ad numerum xij. Iurat') Qui dicunt super sacrament' suū, Quod &c. (*as the matter is.*)

Canteb.

Aliter capi corpus.

Virtute istius brevis mihi directi, capi corpus infranominat' I.S. cujus corpus coram Baroñ infrasc' parat' habeo, prout interius præcipitur mihi.

Capi in manus domini Regis.

Virtute istius brevis mihi directi Baroñ infrascript' certifico; Quod secundo die M. Anno regni dñi Regis infrascript' &c. decimo nono; Ego A.B. Ar' vic' com' C. infrascript' capi, resumpsi, & in manus dñi Regis seisiui, Omnia Tenementa, shopas, gardina, & omnia alia pertiñ, virtute brevis p'd resumend' quæ patent in Inquisitione huic brevi consut'.

Retorn' de seisure in Scaccar', nomine districtionis.

Virtute istius brevis mihi directi secundo die M. Anno regni dñi Regis infrasc' decimo nono, in manus dñi Regis seisiui manerium de S. infrascript' cum pertiñ in S. in com' infrascript', quod quidem manerium est clari annui valoris in omnibus exit' vlti' repris. xx. s. de terf' P.B. in sced' huic brevi annex' nominat'; Ac capi etiam in manus ejusdem dñi Regis vnum torment' vocat' a ~~Detronel~~ cum le flask & touchbox valor' x.s. nomine districtionis, de bonis & catallis I.C. in scedul' prædict' nominat', prout istud breve in se exigit & requirit &c.

A.B. Ar'. Vic.

Virtute &c. Capi de terris & Tenementis infranoñ W. R. ad valenc' lx.s. quos habeo coram Baroñ infrascript' ad diem & locum infracotent', prout interius mihi præcipit', Et vltierius Baroñ infrasc' certifico, quod prædict' W. nulla alia sive plura terras neque Tenementa, bona neque catalla in balliva mea habet, vnde residuum debiti infrascript' fieri facere possum, prout istud breve in se exigit & requirit.

Terra iacet in alia com'.

Baroñ infrascript' certifico quod omnia terf' & Tenementa quæ fuer' infranoñ N.F. (aut a' antecessorum suorum jacent in com' S. & non in balliva mea.

A.B. Armig' Vic'.

Infra-

Infranominat' *J.E.* non est inventus in balliva mea, nec habet vlla bona seu cattal' in balliva mea, sed virtute istius brevis mihi directi Baroñ infrascr. certifico, q' xv. die Iunij Anno xix. dñi regis infrascript' capi in manus dicti dñi regis nomine districtionis, vij. Messuag' siue tenementa cū pertiñ in M. quę sunt clari annui valor' l.s. Bevnun capirale Mess. siue firmar' cum pertinen' in W. Annui valor' quinque Marcarum.

*Seisura no-
mine di-
strictionis.*

Aliter.

Infranominat' *A.B.* non est inventus in ball' mea; Et vltorius Baroñ infrascript', certifico, q' virtute istius brevis mihi directi, tali die et anno infrascript' capi in manus dicti domini regis vñ Messuag' siue tenementum cum pertinen' in B. in com' C. infrascript' annui valor' x. li. vi. de terris et tenementis infranominat' *A.B.* Necnon sex vacas, vñum Taprum, et vñum spadonem præcij in toto viij. li. de bonis et cattallis ejusdem *A.B.* nomine districtionis, prout mihi præcipitur.

Quę quidem omnia bona & cattalla penes me remanent invendit' pro defectu empt'. Et idē *A.B.* nulla alia siue plura bona seu cattalla, terr' seu tenetia habet infra ballivam meam, quę in manus dicti dñi regis ad præsens aliquo modo capere vel seiscire possum.

Aliter.

Baroñ infrascript' certifico quod virtute istius brevis mihi directi ij. die M. anno, &c. infrascript' capi in manus dñi regis Manerium de S. cum pertinen' infrascr. prout, &c.

Scedula.

Residuum execut' istius brevis patet in quadam scedula (siue Inquisitione) huic brevi consuta.

Inquisitio Indentar' capta apud C. in com' prædict' ij. die Martij anno, &c. xix. coram me *J.H.* milit' vic' com' p'd, virtute brevis dicti dñi regis claus. mihi directi, q' est huic inquisitioni annex' per sacram *J.D.R.R.* &c. proborum & legalium hominū com' prædict', Quid dicunt super sacram suum q' Manerium de S. cum pertinen' est annui valor' v. li. vltra omnia onera et repris. In cuius rei testimonium, &c.

Inquisitio.

Aliter.

Manerium de S. infrasp' jacet in com' E. et non in com' C. ideo tenētes inde distringere nō possum prout interius mihi præcipitur.

*In alio Co-
mitat.*

Infranominat' *B.S.* est vic' com' B. et est comorans in dicto com' B. et non est inventus in balliva mea.

Baroñ infrascript' certifico q' ego *H.W.* miles modo sum vic' com' C. Ideo meipsum distringere non possum, prout interius mihi præcipitur.

Infranominata dña *J.S.* Nihil habet in manerijs terris, et tenementis infrascr. nisi cum *R.S.* milit' quem ipsa accepit in virū.

Retorne de Proces,

Retorn' de distring'.

Aliter.

INfranominat' R. A. Nihil habet in terris, tenementis & hereditamentis infra script', per quod ipsum, distring' possum.

Aliter.

Nullum tale manerium, nec vlla terri seu tenement' cognita p nomen de E. Iaceñ in com' Cant' vnde tenent' inde distringere possum, prout interius mihi præcipitur.

Aliter.

Infranominat' I. K. & R. R. Nihil habent, Nec eorum alter aliquid habet in balliva mea; Et ulterius Baroñ infra script' certifico, quod nulli sunt executor vel administrat' bonor' & cattallorum quæ tuerunt infranominat' M. K. vnde ipsos aut eorum aliquem distringere possum.

Aliter.

Baroñ infra sc' certifico, quod A. B. C. D. & ceteri personæ in quibusdam scedulis huic brevi annex' nominat', nulla habent bona seu catalla infra ballivam meam vnde sepecialia debita super eos onerat', seu aliquem inde parceli, fieri facere possum. Nec sunt invent' nec eorum aliquis est invent' in balliva mea; Nec sunt aliqui exec' test' siue ultimæ voluntat' prædict. sepecialium personarum neque administrat' bonorum & cattallorum quæ sua fuerunt, nec, aliqui hered' seu tenen' terri prædict. sepecial' personar' siue eorum aliq. infra ballivam meam quæ distringere possum, prout istud breve in se exigit & requirit.

Residuum executionis istius brevis pater in quibusdam Inquisitionibus huic brevi annex'.

A. B. Armig. Vic'.

Nihil.

Inquisitio Indent' &c. Qui dicunt sup sacram' suū, quod A. B. C. D. &c. in scēd' huic brevi annex' nom' n' sepecial' diebus et annis quibus primo debito devener' dño Regi, seu vnquā postea hucusq; null' habuer' bona seu catalla terri siue tenem' infra ballivā meam quæ extendi aut apprac' possint ad eorum noticiā. Et quod mortui sunt, quibus die & anno siue diebus & annis, ac vbi penitus ignorant. In cuius rei testimonium &c. vt antea.

A. B. Armig. Vic'.

Baroñ infra script' certifico quod P. M. I. S. & T. W. in scedula huic brevi annex' nominat', nulla habent bona seu catalla, terri siue tenem', infra ballivā meā vnde sepecialia debita super ipsos & eorum cujuslibet imponit' fieri facere possum: sed virtute istius brevis mihi direct' fieri feci de bonis et catalla H. L. T. K. & I. B. in dict' scedula nominat' sepecial' summas super ipsos & eorum

eorum quilibet onerat', et denarios ill' coram Baroñ infrascript' ad diem et locū infracontent' parat' habeo, prout interius mihi præcipitur. Et ulterius certifico quod I.B. E.A. et W.B. in dicta scedula nominat' alegaver' se habere exonerationes p' separa' summis super ipsos et eorum quēlibet onerat', et pro eo accepi ab eis sufficiēti securitat', et præfixi eis diem essendi hic ad Scaccarium dñi regis infrascr' ad diem et locum infracontent', prout interius mihi præcipitur.

A.B.Ar'. Vic'.

Retorn' brevis, de Quis est tenens.

Virtute istius brevis mihi directi Baroñ infrascript' certifico, *Quis est tenens,* q' W.B. et M. vxor ejus sunt tenentes tertiæ partis manerij infrascript' in tres partes dividendū et C.A. M.E. et I.B. filia C.D. defunct', sunt tenent' secundæ partis Manerij p'd', in tres partes dividendū, et tertia pars Manerij p'd' remanet in custodia dñi regis, ratione minoris ætatis P.D. fil' et hærēd' prædict' C.D.

Manucapt' prænominat' W. *5 Io. Doe.*
B. et M. vxor ejus *Rich. Roe.*

A.B. Armig. Vic'.

Infranominat' W.B. et vxor ejus sunt tenentes tertiæ partis *Aliter.* Manerij infrascr' in tres partes divisas: Et C.A. M.E. et I.B. filia C.D. defuncti sunt tenentes secundæ partis manerij infrascr' in tres partes divisas, et alia tertia pars manerij infrascript', remanet in manu dñi regis ratione minor' ætatis T.B. filij et hærēd' prædict' C.D.

Manuc' prænominat' W.B. et M. vxor ejus I.D.R.R.

Retorn' de venire fac' extra Scaccarium:

Et ceo semble de stre versus lofficeers del Corone, vel Scaccarij, et est in matre de Summons.

Infranominatus A.B. Nihil habet in balliva mea, p' quod po- *venire fac'*
tēst Attachari, vel ubi eum Sum' possum.

Infranom' A.B. attachiat' *5 I. F.*
est p' pleg' *vix. R.D.*

A.B. Armig' Vic'.

*Aliter scz.
lon est suffid.*

Retorna Brevium.

*Si soit Comes
aut Comitiss-
sa tunc sic.*

Distring'.

Exitus eorum, diñi marc'.

Et ulterius, si hæc verba recitantur in brevi (necnon ad ostendendum) tunc in quovis xx.s.

Infranominat' R. A. nihil habet in terr', tenem', & hæredita-
ment' infrascript', per q' ipsum distringere possum.

Nullum tale manerium, nec vlla terr' seu tenement' cognit' p
nomen de E. jaceñ in comitat' C. vnde tenent' inde distringere
possum, prout interius mihi præcipitur.

*Retorna de fieri facias ubi null' additio
datur alijs deff.*

Baroñ infrascript' certifico quod sunt divers' personæ in com
meo nomini & cognominis de I. K. viz. I. K. de F. & I. K. de
A. quod non continentur in isto brevi, Ita q' de cujus p'd I. K. & c.
bonis & cattal' denar' infrasp' fieri facerē Nescio. Ideo ad execut'
istius brevis procedere non potui.

A. B. Armig. Vic'.

Retorna brevis summ' coram Iustic' Forestæ.

Foresta.

Virtute istius brevis mihi directi sum feci archiepiscop', epis-
copos, comit', Baroñ & omnes alios liberos tenent' qui terr'
& tenement' habent infra metas forestæ dñi regis infrascript', in
com' meo, & quatuor homines, & præposit' de quolibet villat'
infra metas ejusdem forestæ, Ac etiam xij. probos & legales ho-
mines de quolibet burgo infra metas dict' forestæ tenēd', qui ve-
niñ debuerūt & solebant, quod sint coram Iustic' infrascript', ad
diem & locum infracontent', prout interius mihi præcipitur.
Publice etiam pclam' feci p' totam balliyam meam tam in bur-
gis quam in alijs vill' ac in ferijs, mercatis, et alijs locis publicis
quod omnes ill' qui p' cartam dñi regis nunc, aut antecess. vel
progenitor' suoru, aut aliquo alio modo aliquas libertates seu
Franchefias teneant, aut libertat' habere clam', & quo warf, quod
sint coram dictis Iustic' ad diem & locū prædict', pclam' etiā feci
quod omnes attach' p' vert' aut venatione in foresta p'd post vl-
timum placit' forestæ prædict' tent', & eorum pleg' & manucapt'
qui habuer' diem p' manucaptioni prædict' essend' coram præ-
fat' Iustic' ad stand' rect', & ad faciend' ea quæ secundum legem
forestæ facere debent.

Refi-

Residuum executionis istius brevis patet in quibusdam pannell'
huic brevi annex'.

A.B.Ar'.Vic'.

Le Pannel. *Antho' B. de C. generos. et sic xxiiij. for the grand Jurie,
and twelue for the petite Jurie.*

Retorn' brevis de Eligend' viridar' forestę ; Vide hic an-
tea fol.

Retorn' de venditione expon'.

Virtute istius brevis mihi directi de die in diē venditioni ex- *Vendition'*
posui illa bona et cattalla ad valentiā C.s. residuū de viij.li. *exponas.*
quæ nuper de bonis et cattallis terris et tenentis T.F. infranomi-
nat' capi, et inde vendidi ad valentiam xl.s. Quos quidem qua-
dragint' solidos parat' habeo ad diem et locum infracontent' ad
reddend' infranominat' C. D. prout interius mihi præcipitur,
tunc ibidem solvend'. Et residuum bonorū et cattallorū p'd' ad-
huc penes me remanent invendit' pro defectu emptorū sed ven-
ditioni apponam de die in diem, & quando vend' contiger', de-
nar' inde provenient' coram Baroñ infrascript' habebo secundū
formam & effectum hujus brevis.

Aliter. Virtute istius brevis mihi directi de die in diem venditioni
exposui illa bona et cattalla ad valentiam C.s. residuū de viij.li.
quæ nuper de bonis et cattall', terris et tenementis T.F. infrano-
minat' capi et inde vendidi ad valentiam xl.s. quos quidem xl.s.
ad diem & locum infracontent' parat' habeo ad reddend' infra-
nominat' C.D. prout interius mihi præcipitur, Et residuum bo-
norum et cattall' p'd. adhuc penes me remanent invendit' pro
defectu emptorum.

Aliter. Illa bona ad valentiam viginti Marcarum infrascript', quæ vir-
tute brevis dñi regis nunc nuper mihi directi capi de bonis et
cattallis terris & tenementis, quæ nuper fuerunt T. F. infrano-
minat' venditioni exposui, & vendidi, & denarios illos coram
Baroñ infrascript' ad diem & locum infracontent' paratos habeo
prout interius mihi præcipitur.

Aliter. Baroñ infrascript' certifico quod ill' C. Oves in hoc breve *In manus le*
spec' vendition' exponere non potui eo quod adhuc remanent in *annu' vie.*
manus infranomin' R.N. nuper vic' com' C. & nunquā mihi præ-
fat' nunc vic' adhuc per præfat' nuper vic' deliberat' fuer'.

Aliter. Virtute, &c. Baroñ infrascript' certifico q' x. die A. &c. capi *Nondum in-*
de bonis et cattallis terr' et tenementis infranominat' W. ad *veni Empto-*
valorem res.

Retorne de Proces,

valorem, &c. Et de bonis et cattall', terris et tenementis I. D. &c. ad valorem, &c. Et illa venditiō expofui, ad quā nondum inveni emptores, et ideo denarios, &c.

Mortui sunt. A.B. & C.D. infranominati mortui fuerunt diu ante emanationem hujus brevis, Nec aliqua habere bona feu cattalla, terras feu tenementa in balliva mea quę extendi et appræciari possum, prout per breve istud interius mihi præcipitur.

Nihil fact' propter temp. brevit'. Infranominat' A.B. & C.D. Mortui sunt: Et quoad residuum executionis nihil per me actum est propter temporis brevitatē.

Scire fac'. Virtute, &c. Scire feci I. C. infranominat' quod sit coram Baroñ infrascr' ad diem et locum infracontent' per I. S. et R. S. probos et legales homines de balliva mea; prout interius mihi præcipitur.

I. C. et ceteri deff' infranominat' Nihil habent in balliva mea *Aliter.* per quod eis Scire facere possum.

Nul Exec. Nulli sunt executor' de E. infrascript', neque administr' bonorū & cattallorū quę fuerunt ejusdem E. nec hæred' neque tenent' terrar' et tenement' quę sua fuer', in balliva mea, quibus aliquo modo Scire facere possum. *Aliter;*

Retorn' brevis Collect' xv. & x. extra

Scaccarium.

Collect' xv.

Virtute istius brevis mihi directi, Scire feci infranomi A. B. ac etiam quę ex parte domini Regis fierint dedi in mandat' qd prædict' A. B. circa levacionem & collectionem sextę quintedecimę et decimę sex integrar' quintedecimar' et decimar' infrascr'. Ac obligac' secundum formam stat' infrascrip' prædict' A. B. ostendi feci ipsum ex parte domini regis sigilland' & vt factum suum ad vsum ejusdem domini regis deliberand' scz. dedi in mandat', sed prædict' A. B. omnino eand' sigillare, vel circa collect' prædict' intendere recusavit, et adhuc recusat, in contemptu dicti domini regis, Ideo eandem obligationem ad diem et locum infracontent' habere non possum prout interius mihi præcipitur. Et ulterius certifico quod Scire feci infranominat' C. D. quod ipse circa levacionem & collectionē dict', sextę quintedecimę et decimę prædict', sex integrarū quintarū decimarū infrascript' diligenter intendat, Et obligationē secundum formam statuti infrascript' ab eodem C. D. recepi, et eandem in Scaccar' dicti domini Regis ad diem infracontent' certifico, prout interius mihi præcipitur.

A. B. Armig. Vic.

Retorna

*Retorn' brevis de respect' homag' al Distringas
in Scaccario.*

Manuceptores infrañ *A.B.* $\left\{ \begin{array}{l} \text{Io. D.} \\ \text{R. Ro.} \end{array} \right.$

Resp. homag.

Exitus ——— xx.s. *or according to the value of the land
more or lesse.*

A.B. Ar'. Vic'.

Quando aliquis ostend' vic' tall' sua.

Virtute istius brevis mihi directi baron' infrascript' certifico, *Ostendistall'.*
quod firmat' infranominat' post receptionem hujus brevis
mihi ostend' tall' sua, de solutione firmæ suæ interius specific',
ob quod præfixi eis diem essendi coram baron' infrascr', ad faci-
end' & recipiend' super tallia præd' juxta tenorem hujus brevis,
Et ideo levatio sum' interius specific' super sed', prout interius
mihi præcipitur.

A.B. Armig' vic'.

*Retorn' brevis ad proclam' vic' ad reddend' compotum
suum per Coronatores.*

Virtute istius brevis nobis directi baron' infrascript' certifi- *Proclam' vic'*
camus, quod in plena com' C. infrascript', tent' apud castru' *ad Redd'*
C. in comitatu C. præd' vicesimo die A. anno &c. infrascript', ac *compotum.*
etiam in pleno comitatu prædict. apud C. p'd. decimo octavo die
Septembr' anno &c. Necnon diversis vicibus postea in comitatu
præd' articulatim proclamari fecimus omnia & singula articula
quæ in isto brevi continent' & specificant', prout per breve istud
nobis interius præcipitur.

$\left. \begin{array}{l} \text{I.W.} \\ \text{W.R.} \end{array} \right\} \text{Coron'}$

Canteb'.

Inquisitio &c. Qui dicunt super sacrament' suum, quod qui- *Inquisitio.*
bus die & anno nuper comes H. obiit, & vbi penitus ignorant',
quodq; ipse nulla habet bona aut catalla in com' præd' quæ capi
et

Retorne de Proces,

valorem, &c. Et de bonis et cattall', terris et tenementis I. D. &c. ad valorem, &c. Et illa venditioſi expoſui, ad quæ nondum inveni emptores, et ideo denarios, &c.

Mortui ſunt. A. B. & C. D. infranominati mortui fuerunt diu ante emanationem huius brevis, Nec aliqua habere bona ſeu cattalla, terras ſeu tenementa in balliva mea quæ extendi et appræciari poſſum, prout per breve iſtud interius mihi præcipitur.

Nihil fact' propter temp. brevii. Infranominat' A. B. & C. D. Mortui ſunt: Et quoad refiduum executionis nihil per me actum eſt propter temporis brevitatem.

Scire fac. Virtute, &c. Scire feci I. C. infranominat' quod ſit coram Baroſi infraſcr' ad diem et locum infracontent' per I. S. et R. S. probos et legales homines de balliva mea; prout interius mihi præcipitur.

I. C. et ceteri deſſ' infranominat' Nihil habent in balliva mea *Aliter*, per quod eis Scire facere poſſum.

Nul Exec. Nulli ſunt executoſi de E. infraſcript', neque adminiſtr' bonorū & cattallorū quæ fuerunt ejuſdem E. nec hæred' neque tenent' terrar' et tenement' quæ ſua fuer', in balliva mea, quibus aliquo modo Scire facere poſſum. *Aliter*

Retorn' brevis Colleſt' xv. & x. extra Scaccarium.

Colleſt' xv.

Virtute iſtius brevis mihi directi, Scire feci infranomiſi A. B. ac etiam quæ ex parte domini Regis fierint dedi in mandat' q' prædict' A. B. circa levacionem & collectionem ſextæ quintedecimæ et decimæ ſex integrar' quintedecimar' et decimar' infraſcr'. Ac obligac' ſecundum formam ſtat' infraſcrip' prædict' A. B. oſtendi feci ipſum ex parte domini regis ſigilland' & vt factum ſuum ad uſum ejuſdem domini regis deliberand' ſec. dedi in mandat', ſed prædict' A. B. omnino eand' ſigillare, vel circa colleſt' prædict' intendere recusavit, et adhuc recuſat, in contemptu dicti domini regis, Ideo eandem obligationem ad diem et locum infracontent' habere non poſſum prout interius mihi præcipitur. Et ulterius certifico quod Scire feci infranominat' C. D. quod ipſe circa levacionem & collectionē dict', ſextæ quintedecimæ et decimæ prædict', ſex integrarū quintarū decimarū infraſcript' diligenter intendat, Et obligationē ſecundum formam ſtatuti infraſcript' ab eodem C. D. recepi, et eandem in Seaccar' dicti domini Regis ad diem infracontent' certifico, prout interius mihi præcipitur.

A. B. Armig. Vic.

Retorna

*Retorn' brevis de respect' homag' al Distringas
in Scaccario.*

Manuautores infrañ *A.B.* $\begin{cases} \text{Io. D.} \\ \text{R. Ro.} \end{cases}$

Resp. homag.

Exitus ——— xx.s. or according to the value of the land
more or lesse.

A.B.Ar'.Vic'.

Quando aliquis ostend' vic' tall' sua.

Virtute istius brevis mihi directi baron' infrascript' certifico, *Ostenditall'.*
quod firma' infranominat' post receptionem hujus brevis
mihi ostend' tall' sua, de solutione firmæ suæ interius specific',
ob quod præfixi eis diem essendi coram baron' infrascr', ad faci-
end' & recipiend' super tallia præd' juxta tenorem hujus brevis,
Et ideo levatio sum' interius specific' superfed', prout interius
mihi præcipitur.

A.B.Armig' vic'.

*Retorn' brevis ad proclam' vic' ad reddend' compotum
suum per Coronatores.*

Virtute istius brevis nobis directi baron' infrascript' certifi- *Proclam' vic' ad Redd' compotum.*
camus, quod in plena com' C. infrascript', tent' apud castru'
C. in comitatu C. præd' vicesimo die A. anno &c. infrascript', ac
etiam in pleno comitatu prædict. apud C. p'd. decimo octavo die
Septembr' anno &c. Necnon diversis vicibus postea in comitatu
præd' articulatim proclamari fecimus omnia & singula articula
quæ in isto brevi continent' & specificant', prout per breve istud
nobis interius præcipitur.

$\begin{cases} \text{I.W.} \\ \text{W.R.} \end{cases}$ Coron.

Cantebf.

Inquisitio &c. Qui dicunt super sacrament' suum, quod qui- *Inquisitio.*
bus die & anno nuper comes H. obiit, & vbi penitus ignorant',
quodq; ipse nulla habet bona aut catalla in com' præd' quæ capi
et

Retorne de Proces, &c.

et in manus dicti domini regis extendi possunt: Et ulterius dicunt quod pater Comes H. die quo obiit fuit seifit in domum suam ut de feodo, de et in manerio de C. cum pertinenti clari annui valor in omnibus exitus ultra reprimis. xxv. s. quod quidem manerium cum pertinenti ante adventum istius brevis ego premissis. vicus virtute alterius brevis extra hanc curiam emanent et ex parte rememoratus dicti domini regis huius Scaccarij affilatus, seifit feci in manus dicti domini regis per extensum pater, In cuius rei testimonium &c.

Alias:

Vicar in fratre cum pertinenti, in manus dicti domini regis existit, sede Episcopi Eliensis modo vacante.

Alias.

Quod manerium, terram, et tenentiam nuper D. domini de la Warre in manus dicti domini regis existunt, eo quod T. W. miles modo dominus de la Warre, filius et haeres pater D. non prosecutus est liberationem suam extra curiam dicti domini regis wardorum et liberacionem, In cuius rei testimonium &c.

Inquisitio.

Inquisitio &c. Qui dicunt super sacramentum suum quod W. F. in scedula brevi pater annexus nominatus mortuus est sed quibus die et anno aut ubi penitus ignorant quodque W. M. etiam in eadem scedula nominatus est residens in London, & I. S. est comorans apud B. in comitatu C. & R. A. in villa et comitatu H. extra comitatu C. et reliqui personam in eadem scedula nominatus, Ita vagrant et discurrent in comitatu pater dicti quod capi & arrestari non possunt. In cuius rei testimonium &c.

Inquisitio &c. Qui dicunt super sacramentum suum quod H. S. in scedula huic brevi annexus speciem nulla alia sive plura habet maneria, terram, neque tenentiam in comitatu pater. propter & ultra manum, terram, et tenentiam in scedula brevi premissis annexus speciem extendit, aut quae in manus domini regis seifiri possunt. In cuius rei testimonium &c.

Inquisitio &c. Qui dicunt super sacramentum suum, quod I. W. in brevi pater nominatus die captionis huius inquisitionis fuit possessio-natus de quadam dimissione pro termino viginti annorum unius messuagii &c. in A. in comitatu premissis. cum pertinenti annui valoris in omnibus exitus ultra reprimis. 4. s. quam quidem dimissionem ego premissis. vicus die captionis huius inquisitionis capi in manus dicti domini regis. In cuius rei testimonium &c.

Retorna

Retorna brevis extra Cur Wardorū & Liberationū.

Post receptionem istius brevis, & ante retorū ejusdem sepe-
rales denar' summæ infrascript' solutæ fuerunt p sepe-
rales personas infranominat' receptori domini regis cur' suæ war-
dorum & liberationum: Ideo ad executionem ejusdem brevis
procedere non potui prout interius mihi præcipitur.

A. B. Ar. Vic.

Returns concerning the old Sherife.

Ante adventum istius brevis, I. C. miles nuper vic' com' C.
infranominat' T. D. caput & in prisoia dñi regis petes se
detinuit virtute cujusdā brevis dñi regis dicto nuper vic'
direct', quē quidem T. D. dictus nuper vic' vna cum dicto brevi
ei directo, mihi I. D. mihi nunc vic' com' pd' in ejus exitu ab offi-
cio suo deliberavit, cujus quidem corpus, ac breve dicto nuper
vic' direct' Ego præfat' nunc vic' coram Iustic' infrascript' ad di-
em & locū infracentent' parat' habeo, ad faciend' & recipiend'
quod dictum breve in se exigit & requirit.

Cap. Vilag.

Istud breve prout superius indorfat' simul cum Inquisic' huic
brevis annex' yj. die Ma. anno regni dñi regis, & c. liberat' fuit mihi
A. B. Ar. Vic. Canteb. infrascr' per I. G. milit' nuper vic' com'
prædict' prædecessoris mei, in ejus exitu ab officio suo.

*Testificat' res
nuper vic.*

Geo darcin Retor' corvies este isari en Romaine letters.

Retorū ad proclamand' vic' ad redē. Comporū: See hic an-
tea Retor' de proces hors del eschequer. fol. 114.

Retorū de Captus per darcin vic' & minime deliberat' in exitu ab
officio: See hic antea Retor' de Habeas Corpus 94.

Retorū de exigent' inter duos vicecom': Vide hic antea Re-
torū de Exigent': fol. 90.

Retorne, quē les biens (de stre vend) remayne in les mains del aune
vic' hic fol. 117.

Returne

Returne of Iuries.

Returne of Iuries.

*For the
Assises.*



The Sheriffe is to summon and returne (oz to cause to bee summoned and returned) the grand Iurie to the Assises, the forme whereof see antea fol.

*For the
Sessions.*

The Sheriffe is likewise to summon and returne the Iuries for the Quarter Sessions; the forme whereof see also antea fol.

Sheriffes ought to array their pannells for the speciall Assises six dayes (at least) before the Sessions of the Justices, vpon paine of twentie pound: so that the parties plaintiffes, tenants, oz defendants may haue the view and coppies of the pannells; if they shall demand the same.

*42.E.3.c.11
6.H.6.c.1.*

*Coppies of
pannells.*

The which coppies of pannells shall bee indented by the Sheriffe, and deliuered to the plaintiffes, tenants, and defendants (vpon their demaund) six dayes before the Sessions, vpon paine to forfeit fortye pound for euery default.

Also the Bailiffes of franchises and Liberties ought to make their returnes to the Sheriffe (of the names of such persons as are to bee so impannelled) eight dayes (at least) before such speciall Sessions oz Assises, vpon paine of fortye pound to bee forfeited to the King for euery default.

Ibid.

*Sancti deno-
mination.*

Jurors in inditeiments shall be returned by the sherrife, oz bailiffes of franchises, without any denomination to the sherrife oz bailiffes before made, by any person of the names, which by him oz them should be impannelled (except it be by the officers of the said sherrife oz bailiffes, sworn & knowne to make the same, and other officers to whom it appertaineth to make the same according to the Law:) And if any inditement be made (oz taken) in any point to the contrarye, the same inditement shall be also void, reuoked, and for euery holden for none.

11.H.4.c.9.

Whereas diuers great inconueniences haue heretofore beene

beene, by reason that Sherifes and their ministers haue returned at the Assises and Sessions of the peace, the names of such persons as by labour would bee wilfully forsworne and perjured, by reason whereof diuers persons haue beene wrongfully indicted of murders, felonies, and other misdemeaners. And sometimes diuers great felons and murders haue beene concealed & not presented, &c. Therefore by the statute made 3. H. 8. c. 12. It is enacted that all pannelles returned, which be not at the suit of any partie, that shall bee made and put in by the Sherif or his officers, before any Justices of Gaole deliuerie, or before Justices of the Peace in their open Sessions, to inquire for the King may bee reformed, by putting to, and taking out of names of the persons that be so impannelled by the discretion of the Justices, before whom such pannelles shall be returned: And that the same Justice or Justices shall command euery Sherife, and their ministers (in his absence) to put other persons in the same pannelles by their discretions: And the same pannelles so reformed by the said Justices to be good and lawfull. And if any Sherife or minister doe not returne the same pannelles so reformed, then euery Sherife or minister so offending shall forfeit twentieth pound for euery such offence, the one halfe thereof to be to the King, and the other halfe to him that will sue for the same.

*Reforme per
les Justices.*

Whereas before (by the statute of 13. E. 1. c. 30. none were to bee put in, or vpon any Iurie, other than those that were summoned to the same at the first.

17. Eliz. c. 6.

And if the Sherife shall returne any Iuroz which was not lawfully summoned, warned, or distrayned in that behalf, and that such person (for default of his appearance) shall lose or forfeit any issues, then the Sherife (or his minister, by whose default such person shall be returned summoned) shall forfeit to the partie so returned, double the value of the issues by such Iuroz lost or forfeited for his default of appearance.

Nisi Sumo.

Note, the law requireth that Sherifes, and other officers, shall be indifferent persons of themselves, & shall deale by-rightly in returning of Iurozs for trials, & therefore the law doth not allow that Sherife, vnder Sherife, bailife of franchise coroner, or other person, as indifferent or meet to impannell any iury, who is a party to the suit or matter in question, or who doth maintaine either of the parties p^r, or defendant in the same suit, or is of counsell with either of them in that suit

*Partialite
del vicount.*

*Causes of
challenge.*

Returne of Iuries.

suit then in issue; Nor who is within the distresse, or receiveth the yearely fee, or weareth the livery or robe of any of the parties to that suite; Nor who is of kindred by nature, or of affinity by marriage, to any of the parties to that suit; Nor who doth returne that enquest, or any of the Jurors therein at the Denomination, or by the procurement of any of the parties to the same suit, or of any other person whatsoever; Nor who doth impannell that enquest, or any of the Jurors therein, for the favour which hee doth beare more to the one partie than to the other, nor who was an arbitrator in that cause in question, and to bee in triall, and did treat & confer of the same; Nor who is then in suit of law with either of the parties to this question or triall, for any matter of trespassse, malice, or enill will; Nor who did baptise the child of any of the parties to this suit and triall, or any of the parties to the same suit did baptise his child: All which the law doth take as causes of suspicion of favour and affection in the Sherife, his undersherife, or other officers; and to be moners to perjurie, and therefore upon challenge of the array so being impannelled, and the same proved, the whole array shall be quashed.

And further, to the end and intent that all trialls might be by indifferent Jurors, therefore the lawes and statutes of this Realme have provided, That no Sherife or bailife shall impannell any enquest, nor put into any Jury, any persons but such as are next neighbours, and which have best knowledge of the truth, most sufficient and most substantiall people, and worthy of credit, and not suspected, nor procured, nor laboured: And he that doth otherwise, and is attainted thereupon, shall pay unto the plaintife his damages double, and shall be grievously amerced to the King: and besides the Sherife stands bound thus to doe by his oath: Artic. 14.

If the Sherife or bailife of a libertie shall returne a Jury contrarie to the forme of these statutes, the parties plaintife, and defendant may have their action upon the statute against the Sherife or bailife, &c. For that the statute is a prohibition in it selfe; or the partie plaintife may have a writ, de non ponendis in Assisis, &c. (founded upon this statute) directed to the Sherife, commanding him to returne a pannel according to these statutes; and if the Sherife will not doe accordingly, the plaintife may have an attachment against the Sherife, therefore see the forme of this writ, De non ponendis in Assisis: Register 178. et Fitz. 165.

Also

*What manner
of persons.*

28. E. 1. c. 9.
34. E. 3. c. 4.
42. E. 3. c. 11.

Fitz. 166. d.

Also if the Sherife &c. shall retorne vpon a Iurie any persons which are not sufficient to passe in the same action &c. then such Jurors may haue an action vpon the statute against the Sherife.

No Sherife, bailife of libertie, nor any other officer, shall retorne in any pannel of Iurie, any bailifes, officers, or ser-vants to any Sherife, vnder Sherife, coroner, steward of fran-chise, warden of prisons, or other of their officers, vpon paine to forfeit fortie pound, the one halfe to the king, the o-ther halfe to him that will sue for the same.

*Nul Officer
del vicount.*

Vncore si le Vicount empanell ses amyes, et cosins, il ne deins cest stat.
per Eliot 2 r. H. 7. fol. 36. a.

Doct. &
Sci. 15.

Barons and Peeres of the Realme shall not be impanel- led or returned vpon Iuries by the Sherife, Fitz. 165. & Co. 6. 53. & Co. 9. 49.

Barons.

But euerie Baron of the parliament (aswell of the spi- ritualtie, as temporaltie) ought to haue knights returned of their Iurie, Fitz. Enquest 43. Co. 6. 53. 54. & Pl. 117. vide 33 H. 8. Br. Jurors 48. et 27. H. 8. Br. Enquest 99.

Fitz. 166. b.

Clerkes which haue lands or tenements by discent, or by purchase, may be impanelled, returned and swozne vpon Iuries, aswell as other lay persons (except when they bee in the kings seruice,) but this is now out of vse.

Clerkes.

Mes si le vicount retorne ascun seignior sur Iurie, si ne appeare, il perd ses issues retorne &c. Fitz. 166. a.

Asint si le vicount impannell & retorne ascun Clerke, il couient ap- peare, &c. auterment il perd ses issues &c. Fitz. 166. b.

Fitz. 166. f.

Tenants in auncient Demesne (which are dwelling there) shall not be returned by the Sherife in any pannel for their lands within ancient Demesne: but for their other lands or tenements which they haue out of ancient De- mesne, it seemes they may bee impanelled and returned by the Sherife.

*Tenants in an-
cient demesne*

34 E. 1.

Foresters, Verderors, Regardors, Agistors, nor other mi- nisters of the Forrest, the Sherife ought not to impannell or retorne any of them vpon any Iurie or Inquisition to be ta- ken out of the same Forrest, Fitz. 167. a.

Foresters.

Fitz. 167. 2.

Coroners of the Countie, the Sherife ought not to retorne them vpon any Iurie, or Inquisition: but vpon Inquisiti- ons to be made within their Countie before Commissi- oners, or Justices of peac, the Sherife may retorne Co- roners.

Coroners.

Fitz. 165. d.
166 a. d.

Persons aboute the age of seuentie yeares are not to be re- turned by the Sherife or Bayliffe of liberties vpon Iuries;

Aged persons

Returme of Iuries.

No persons being continually sicke, or being diseased at the time of their summonings.

*Alien.
Enfant.
Minister.*

No Alien, Enfant under fourteene yeares of age, Clergie men, or Ministers shall be impannelled: Lambt. 382.

*Hors del
Countie.*

No persons dwelling in another Countie at the time of the summonings, shall be returned vpon any Iurie: But this Statute shall not extend to great Assises, in which it behooueth many times knights to passe, although they be not resident in the countrey (for the scarcitie of knights) so that they haue land within the shire. Fitz. 165. d.
& 166. d.

And such persons may haue their writ to the Sherife, commanding him that hee shall not impannell them: Or (without any such writ suing) they may haue their action vpon the Statute against the Sherife, wherein the partie grieved shall recouer his damages, and the Sherife shall also be amerced to the King: see 8. E. 3. fol. 30. Fitz. 165. b.
166. d.

But yet they which doe purchase Charters of exemption and libertie, not to be impannelled (in Assises, Iuries, and Enquests) if their oathes be so requisite, that without them Justice cannot be ministered (as in great Assises, perambulations, and in deedes or writings of couenants, where they be named for witnessles, or in attaints and in other like cases) they shall be compelled to sweare sauing to them at another time their foresaid libertie and exemption, Marl. 52. Hen. 3. 14.

Alien.

Also where an Alien is partie to any triall the enquest shall be de medietate linguæ 28. E. 3. cap. 13.

No Indictor shall bee put in enquests vpon deliuerance of the Inditees of felonie or trespassse, if hee be challenged for the same cause by him which is indicted 25. E. 3. 3.

No indictment shall be made by any persons which bee outlawed, or which haue fled to sanctuarie for treason or felonie, but by enquest of the K. liege and lawfull people, 11. H. 4. cap. 9.

*Probi
&
Legales.*

So that by this statute of 11. H. 4. c. 9. the Sherife is appointed to return none vpon any inditement, but such as are *probi & legales homines*: *Probi*, scz. such as are not discredited in law by attainder in conspiracie, attaint, decies tantum, subornation of perurie, concealment or such like: *Legales*, scz. such as are not outlawed, abjured, condemned in a premunire, or attainted of treason, felony, or such like.

Likewise Jurors warned vpon triall, &c. they ought (by the Statute made 42. Edw. 3. cap. 11.) to be most worthy of credit, and not suspected: And (by the Statutes made

35. H.

35. H. 8. cap. 6. & 27. Eliz. 6.) they ought to be Liberi, & legales homines.

Also the Sherife nor his officers shall not doe well to re-
turne or impannell wittingly vpon any Iurie, any person
who is neere of kindred or affinitie to either of the parties
to that suit. *Kindred.*

Nor any person who is seruant to either of the parties. *Servant.*

Nor any person who is within the distresse of either of
the parties to the suit. *Deins distr.*

35. H. 8. c. 6.
3. E. 6. c. 32.

Upon the triall of any issue ioynd in any of the Kings
Courts at Westminster, the Sherife (or other minister to
whom the making of the pannell shall appertaine) shall re-
turne in euery pannell vpon the venire facias, sixe sufficient
hundredors (at the least) if there be so many hundredors
within the said hundred where the Venue lyeth, vpon
paine to forfeit for euery hundredor that shall bee omit-
ted in such returne of the number aforesaid twentie shil-
lings. *Hundredors.*

But by the Statute of 27. Eliz. cap. 6. vpon the triall of
any issue ioynd in any personall action, if two sufficient
hundredors do appeare it is sufficient, so as no further chal-
lenge for the hundred shall be admitted.

Note that hundredors bee men impannelled, or fit to bee
impannelled of a Iurie vpon any controuersie, and dwell-
ling within the hundred where the land lyeth, which is in
question.

* Also the word here before, Venue, Vicinetum, signifi-
eth a neighbour or neere place, i. e. the Sherife, &c. shall re-
turne, &c. sixe hundredors, &c. if there be so many within the
hundred where the Venue lieth, that is within the hundred
or place where the demand is made.

27. Eliz. c. 7.
39. Eliz. c. 8.

No Sherife, Coroner, or other person to whom it shall
appertaine to make returne of any writ, shall returne
any Iuroz dwelling out of libertie, without the true ad-
dition of his dwelling place, or of the place of his
abode (at the time of the said returne, or within one
yeare next before the making of such returne) or some
other addition by which the partie returned may be knowne,
vpon paine to lose five markes to the King, and five markes
to the partie grieved. *Addition.*

27. Eliz. c. 7.

And the bayliffes of liberties, or their deputies shall cer-
tifie and deliuer vnder their hands to the Sherife or his de-
putie, the names of all persons within their libertie to
be returned vpon any Iurie, with the true addition of their
dwelling.

Returme of Iuries.

dwelling place or of the place of their abode, &c. as aforesaid.

And the Sherife, &c. shall not returne any Jurors with-^{Ibid.} in any libertie with other addition than such as shall bee delivered to him by the Bailife of the said libertie, or his deputie, certified vnder his or their hands, as aforesaid.

Also no extract of issues against any Juror, returned as aforesaid, shall be delivered out, retained, or put in vze. with-^{Ibid.} out such addition as is put in the originall Pannell or Tales wherein such Juror shall bee so returned.

And no Undersherife, Bailife, or other officer or person^{Ibid.} whatsoever, shall collect, lewie, or gather any issues so estreated of any other person or persons, than such person and persons, as by vertue of the said estreat is of right charged or chargeable with the payment of the said issues, vpon paine that euerie Sherife, Clerke, or other person offending contrarie to the true meaning of this statute, shall forfeit to the King five markes, and to the partie grieved five markes.

*Their num-
ber.*

Now to shew how many the Sherife must returne vpon a Iurie; note that the writ of Venire facias (for the impan-
nelling of Iuries) runneth in this forme. Rex, &c. Pracipimus, &c. quod venire facias coram, &c. duodecem liberos & legales homines, &c. And yet the Sherife must returne^{24.} but in former times it seemeth that Sherifes bled to returne unreasonable numbers, to the grievance and great trouble of the people: And therefore it was enacted by the statute of Westminter, 2. cap. 38. which was made anno 13. Edw. 1. That in one Assise no more shall bee summoned, or returned vpon a Iurie, than foure and twentie.

Also by the same statute of Westminter, 2. cap. 13. Sherifes in their Tuenes shall cause their Enquests to be made of twelue at the least.

If vpon a venire facias the Sherife shall returne but 23. and 12. appeare and giue their verdict, this is Error, Co. 5. 36. & 37.

And yet in a writ of Wast, the plaintife hath a writ to the Sherife to enquire of the Wast, &c. for that this is but an enquest of office, the Sherife may inquire by the oath of five or eight persons of this Wast, and need not to take twelue persons.

No Iurie shall bee compelled to appeare in any of the Kings Courts at Westmynster, for the triall of any issue in any suit, vpon any penall Law, for any offence committed aboue thertie miles from the Citie of Westmynster, except in case where the Attorneie generall for the tyme being, for some reasonable cause in that behalfe shewed, shall require the same to be tried at the barre in any of the Courts of the Kings Maiestie his heires or successours at Westmynster aforesaid, which request shall bee noted on the backeside of the writ of distringas thereupon awarded, to the end the Sherife or his Baylife may and shall signifie the same to the Iurie that are in such cases impannelled: 28. Eliz. 5. 27. Eliz. 1. 10. Eliz. 1.

To appeare at Westmynster.

If any Sherife, Undersherife, Sherifes deputies, Sherife or Undersherifes Clerke, or any Baylife of franchise shall receiue, take, or haue by himselfe, or by any other, any summe of money, reward, or other profit directly or indirectly, or doe take any promise, make any agreement, or assent to haue any summe of money, reward, or other profit, directly or indirectly, of any person or persons for the sparing, not warning or not returning of any person to be sworn as a Iuroz, for the triall of any issue ioynd or to be ioynd in any of the Kings Courts aforesaid (viz. The Kings Bench, Common Pleas, and Exchequer) or before any Iustices: then euerie Sherife, Undersherife, Baylife, &c. so offending shall forfeit for euerie such offence five pound to the King, and J. to be recouered in any court of record &c.

Spare part reward.

The sufficiencie of Iurors.

By the old statutes none were to be put or returned in any Assises or Iuries, that might not dispend twentie shillings yerely in land; and if such Assises or Iuries were to bee taken out of the shire, none should passe or bee returned in them, but such as might dispend fortie shillings yearely at least in lands.

The sufficiencie of freehold.

And if the Sherife or any Bailife of libertie shall offend in any point therein they should yeeld the partie grieved damages, and be amerced besides to the King.

And by a later statute made anno 21. Ed. 1. no Sherife, Undersherife, Baylife of libertie, or other officer shall impannell any Iuroz for the triall of any matter which is to

Returne of Iuries.

*Pur trial
hers del
Countie v. li.*

be tried out of their proper Countie, except such Justices may spend in lands and tenements five pound per annum, at the least: and if they shall doe otherwise, the partie may haue his action vpon the Statute against the Sheriffe or other officer.

Fitz. 166. c.

*Diens le
Countie xl. s.*

And none shall be impannelled to trie any matter with in the Countie, except they haue in lands and tenements fortie shillings per annum; and the partie grieved may also haue his action vpon the Statute against the officer offending herein: *Fitz. N. Br. 166. c.*

*Touching
life.*

*Pleas Reall.
Or fortie
markes da-
mages.*

Also by the Statute of 2. H. 5. cap. 4. no person shall be admitted to passe in or vpon any enquest to be taken or made betweene Denizen and denizen, vpon triall of the death of a man; nor in any enquest betwixt partie and partie in any plea Reall, nor in plea Personall, whereof the Debt or Damages declared amount to fortie markes, if the same person haue not lands of the yearely value of fortie shillings aboue all charges; so that hee bee challenged for that cause by the partie, &c.

2. H. 5.

*De medieta-
te lingue.*

But in all manner of enquests, where any alien is a partie to any triall (although the King bee a partie) the one halfe of the enquest or Jurors shall be of aliens (if so many aliens be in the towne or place where such enquest is to bee taken, &c.) And that although such aliens haue not lands to the value of fortie shillings per annum.

*27. E. 3. c. 8.
28. E. 3. c. 13
8. H. 6. c. 19.*

And yet where any Egyptian shall be indited of any felony, the enquest that shall passe betweene the King and such partie shall be altogether of Englishmen: 22. H. 8. c. 10. 1. & 2. P. & M. 4. & 5. Eliz. c. 20.

Neither shall a Scottisbman haue his triall here, *p me-
dieta rem lingue*, for that they are accounted subiects and aliens: see *Dyer* 304. & *Co.* 9. fol. 117.

By the statute made 35. H. 8. cap. 6. it is enacted that in euerie case where such persons as should passe vpon the triall of any issue (ioyned in any of the Kings Courts of Record commonly holden at Westminster) ought by the Law to dispend fortie shillings by the yeare of freehold for terme of life, That the writs of *Venire facias*, which from thenceforth shall bee awarded and directed for the impannelling of such persons as shall trie the same issue, shall bee in this forme, *Rex, &c. præcipimus, &c. quod venire facias coram, &c. xij. liberes & legales homines de vicinor de B. Quorum quilibet habeat quadraginta solidat' terr' tenement' vel reddit', per annum, ad minus, per quas rei veritas melius scire poterit, et qui*
nec

nec &c. (after the ancient forme). And in every case where it is not requisite, that the persons that shall passe upon the retall of any issue (joyned in any of the kings courts aforesaid) shall dispend forty shillings by the yeare of freehold, that then the writ of Venire facias that shall bee awarded shall be made after the forme aforesaid, omitting the clause Quorum quilibet habeat 40 s. terre, tenement, vel reddit. per annum ad minus. And that upon every such writ of Venire facias that shall have the said clause Quorum quilibet &c. the Sherife or other minister to whom the making of the pannell shall appertaine, shall not returne in any such pannell any person, unless he may dispend forty shillings by the yeare at the least, of estate of freehold, out of ancient demesne, and within the countie where the issue is to bee tried (and also shall returne six sufficient hundredors at least &c.) upon paine to forfeit for every person being returned in any such pannell that cannot dispend forty shillings by the yeare (as aforesaid) twenty shillings. 6. Hundre-
dors.

27. Eliz.

But after by the statute made Anno 27. Eliz. cap. 6. it was enacted that in all cases where any Jurors to bee returned for the triall of any issue, (joyned in any of the k. courts of the kings bench, common plees, and the eschequer, or before Justices of assise) by the lawes of this Realme ought to have estate of freehold in lands, tenements, or hereditaments of the cleare yearely value of forty shillings, that in every such case, the Jurors that shall be returned shall every of them have estate of freehold (in lands tenements or hereditaments) to the cleare yearely value of foure pounds at the least, and that the writs of Venire facias, which shall be awarded for the impannelling of Juries in the cases aforesaid, shall be in this forme, Rex &c. precipimus &c. quod venire fac. coram &c. xij. liberos et legales homines de viceneto de B. Quorum quilibet habeat quatuor libras terre, tenement, vel reddit. per annum ad minus &c. And that upon every such writ of Venire fac. the Sherife or other minister unto whom the making of the pannell shall appertaine, shall not returne in any such pannell any person unless he may dispend foure pounds by the yeare, at the least of freehold, out of ancient demesne, within the County where the issue is to bee tried upon paine to forfeit for every person being returned in any such pannell that cannot dispend foure pound freehold (as aforesaid) twenty shillings. 4. li. per annu

And in every writ of Venire facias wherein the aforesaid clause (Quorum quilibet habeat quatuor libras &c.) shall bee omitted Venire fac.

Returue of Iuries.

omitted, there the Sheriffe or other minister to whom the making of the panell shall appertain shall not returne in any such panell, any person vellese he may dispend some lands or tenements of estate of freehold out of auncient demesne within the countie where the issue is to be tried, vpon paine to forfeit twentie shillings for euery person returned in any such panell, that cannot dispend some land by the yeare.

*Corporate
townes.*

But note that these statutes made anno 35. H. 8. & 27. Eli. doe not extend to any Iuries to be returned in any citie or town corporate, or other towne or place priuiledged to hold plea, or in the twelue shires of Wales, but that there they shall and may bee returned, as heretofore they lawfully might haue bene.

Their sufficiencie in Attaints.

In Attaints.

*20. pound
per annum.*

Sheriffes, Bailifes of franchise, and Coroners ought to returne in writs of Attaints in plea of land of the yearly value of fortie shillings or more; and in actions of Attaint for deedes concerning land of the yearly value of fortie shillings; and in personall actions of fortie pound or more, such persons inhabiting within his bailiwicke which can dispend twentie pound per annum, besides all charges, for terme of life at least, and out of auncient demesne, and cinque ports; and if there be not sufficient persons vnder the degree of a Baron inhabiting within the countie which can expend twenty pound per annu then they shall impanell other persons of the most sufficient in possession of yearly value of lands vnder the value of twentie pound per annu, vpon paine of twentie pound.

20. markes.

5. markes.

*Tales into
another
countie.*

By another statute made anno 23. H. 8. where the thing in demaund extendeth to fortie pound (and concerneth not mans life) euery of the grand Iurie that shall passe in an attaint in such case must haue lands to the value of twentie markes by the yeare of freehold out of auncient demesne: But where the thing in demaund (being a thing personall, as debt, trespass, or the like) shall bee vnder fortie pound, it sufficeth if enery person of the graund Iurie, which shall passe in the same attaint may dispend five markes by the yeare of freehold land out of auncient demesne, or bee worth a hundred markes in goods.

And if there be not persons of such sufficiencie of freehold within the Shire (or place where any of the said attaints

taints shall bee taken) as may passe in the same, then one Tales shall be awarded into the shire next adjoining (by the discretion of the Justices before whom the same attaints shall be taken) which shall be warned to appeare upon like paines as is aforesaid, and enabled to passe in the said attaints, as if they were dwelling in the shire where the same attaints shall be taken.

1.H.3.c.8.
3.H.8.c.2.

Also no sherife or other person upon any writ or Precept to them directed to returue before any Escheator or Commissioners, shall returue any person to inquire of any lands or tenements, except such person, or others to his vse, haue lands or tenements of the yearely value of fortie shillings aboue all charges, within the same shire where the inquire shall be made, upon paine to forfeit five pound for every Juror otherwise returned (except the same Jurors be returned before an Escheator in a citie or corporate towne, or which is made by any person hauing priuiledge to make Escheators.

Before Escheators.

And by an old statute made anno 34.E.3.cap.13. such Jurors returned before Escheators must bee men of good fame, and dwelling in the same countie where the inquire shall be.

8.H.6.c.9.

Upon every precept directed vnto the sherif from Justices of peace to enquire of forcible entries or Detainors, the sherife ought to returue sufficient persons dwelling next about the lands forcibly entred vpon or Detained, whereof euerie man to be impannelled to enquire in that behalfe shall haue lands or tenements of the cleere yearely value of fortie shillings at least aboue reprises; and for euerie default herein the sherife shall forfeit twentie pound, and also pay a fine to the king: And yet note, that if such Jurors shall not haue lands of such yearely value, yet their presentment is good for the king, but then the partie put out forcibly &c. shal haue no restitution &c. Lamb. 155.

Vpon Forcible entrie.

19.H.7.13.

Upon a Precept directed vnto the sherife from the Justices of peace, to returue before them a Iurie to enquire of any riot, rout, or unlawfull assemblie, the sherife shall returue foure and twentie persons dwelling in the shire where such riot &c. shall be committed, whereof euerie one of them shall haue lands &c. within the same shire to the yearely value of twentie shillings per annum of freehold, or of twentie six shillings and eight pence of copyhold, or of both ouer and aboue all charges, and the sherife in default of such returue shall forfeit to the king the summe of twentie pound.

Vpon Riot.

Upon

Returne of Iuries.

Upon the default of the Justices of peace and sherife in ^{3.H.3.c.8.} not executing the statutes made for suppressing of riots &c. the partie grieved may haue a commission out of the Chancerie to enquire of the matter, as also of the defaults of the Justices and Sherife, vpon which commission the Coroners of that countie where the ryot &c. was committed, shall make the panell, and shall returne onely such persons for that inquirie as haue lands, tenements, or rents to the value of x.l. by the yere at least: But if the sherife (reputed to be in default as aforesaid) be discharged of his office at the time that such commission shall be awarded out of the Chancerie, then the new sherife of the same countie shall make the panel vpon this commission, and shall returne onely such persons as haue ten pound by the yere at least (vt supra) and in default thereof the new sherife shall forfeit forty pound.

10. pound
per annum.

Enquestis of
enquirie.

Enquestis taken by the Justices of peace to inquire of concealments of other enquestis taken before them, or others &c. every man that shall be returned vpon such enquestis (of enquirie) must haue lands and tenements to the yearly value of forty shillings at the least, ^{3.Henric.7.} cap. 1.

Sherifes
Torne.

The sufficiencie of Iurors in the Sherifs Torne. See hic postea tit^r Sherifes Torne.

In London.

Of what sufficiencie Iurors impanelled in the citie of London (in severall cases) must be. See the Statutes made 11. H.7. cap. 21. 4.H.8. cap. 3. 5.H.8. cap. 5. & 37.H.8. cap. 5. P. Iurors 16.

Corporate
townes.

What sufficiencie is required in Iurors to enquire of felonies committed in corporate townes. See the statute made anno 23. H.8. cap. 13. & P. tit. Iurors 15.

The sufficiencie of other Iurors in corporate townes. See the statute made 35. H.8. ca. 6.

Lancaster.

Of what sufficiencie those Iurors must be in the countie of Lancaster, which shall indite a forreiner dwelling in another shire. See the statute made anno 33. Hen. 6. cap. 2. P. Iurors 17.

Of what sufficiencie those Iurors must be which in any other countie shall indite any person inhabiting within the countie of Lancaster. Ibid.

Wales.

The sufficiencie of Iurors in Wales. See the statute made an^o 34. H.8. ca. 26. Poulton tit. Wales 70.

Note that it is verie needfull for the high sherife to haue a booke containing the names of all the freeholders within his

his countie, and their sufficiencies; so that he himselfe may make the panells according to his oath, Artic. 14.

The Antiquitie of Iurors.

Coli. 3. & 8
Preface.

The triall by Iuries (scz. by the oathes of twelue men) was long time before the Conquest, and is one of the inuincible arguments of the antiquity of the Common Lawes of this realme, being only appropriated to them.

Master Cambrden (in his Britannia pag. 153.) saith thus thereof: Whereas Polidor Virgil writeth that William the Conqueror first brought in the triall by twelue men, there is nothing more vntrue, for it is most certaine and apparant by the lawes of Etheldred, that it was in vse many yeares before &c.

For the excellencie and indifferencie of this kind of trial, and why it is onely appropriated to the Common lawes of England. See Justice Fortescue cap. 25. 26. 27. 28. 29. 30. 31. 32. &c.

Retorne

Returne of Issues.

Returne of Issues.



Now concerning issues to be returned by the sherife, the sherife shall doe well to consider of his oath, whereby he stands bound truely to set, and returne reasonable and due issues vpon all such as bee within his countie, after their estate.

The statutes to this purpose are as followeth.

*Issues vpon
the defendāt.*

For as much as sherifes and bailifes of liberties many times make false returnes as touching the articles, *Quod de exitibus &c.* sometimes returning that there are small issues when they may returne great, and sometimes do make mention of no issues, It is therefore ordained that if the plaintife shall demand hearing of the sherifes returne, it shall bee granted him; and if he will auer (or offer to proue) that the sherife &c. might haue returned greater issues, he shall haue a writ to the Iustices of Assise that they shall enquire thereof. *scz.* that they shall enquire of what, and how great issues the sherife might haue made his returne, from the day of the writ purchased, vnto the day of the returne thereof: And if it bee found that he hath not answered for the whole, he shall be charged with the ouerplus by the estreats of the Iustices deliuered into the Exchequer, and besides shall be grieuously amerced for his concealment. *Vide Br. Issues 2.4.6.*

*West. 1. c. 39
1. E. 3. c. 5.*

Issues quid.

And by the same statute of *Westm. 2.* within or vnder the name of issues are contained rents, corne in the grange, and all moueables (except horse, harneis, apparrell, and household stuffe.)

Quantum.

So that the sherifes and bailifes of liberties by the said statute of *Westm. 2.* & *1. E. 3. 5.* must returne sufficient, and good & reasonable issues vpon such persons as haue lands or goods sufficient, *scz.* they must returne in issues so much as the partie may perceiue and take, or as ariseth of the profit of the lands within that countie, and the rents from the day

*West. 1. c. 39.
27. H. 8. f. 3.*

day of the teste of the writ, until the day of the returne thereof, and the value of his goods which hee hath in all that time (except his horse and their furniture, and his apparrell and household stuffe) and if the Sherife or Bailife of liberty doth not accordingly, they shall answer the surplusage. See 27.H.8.f.3. & Br. Issues 1.2.4.6.7.

And yet where the sherife hath returned too small issues, if in time he prayeth to amend his returne therein, the court in fauour will permit it. Br. Issues 1.

8.E.4.c.2.

Upon proces against any person, for retaining or giuing of lueries, or against any which is retained (contrarie to the statute,) the sherife ought to returne vpon the defendant (being a person sufficient) no lesser issues than xx.s. at the first day of the distresse, and at the second day xxx.s. and at the third day xl.s. & so at euery day after more by x.s. in issues; and if any sherife do the contrarie, he shall forfeit for euery such returne against the forme aforesaid xx.s.

Retainers.

The stat. of West. 2. c. 39. doth giue an auerment against the returne of the sherife if hee returne too small in issues; and yet a man shall not auerre against the sherifes bailife, that he might haue returned greater issues &c. But against the sherife himselfe onely, by this statute of Westm 2. Fitz. Auereement 43.

Auerment.

But by the statute of 1.E.3.cap.5. made against the false returns of bailifs of franchises (which haue full returne of writs) a man shall haue Auereement, and recouer against them (as well as against the sherife) and that of too little issues returned, as in other cases; and all the punishment shall fall only vpon the bailifes.

Fitz. Auereement 16.

Note that the plaintife may auer against the returne of the sherife when he returneth too small issues, as aforesaid. But the def. cannot haue such auereement, and this is by force of the stat. of West. 2. c. 39. for before that stat. the pl had no remedie, but only his action of the Case against the sherife in such case, which remedie the plaintife may haue still.

Fitz. Auereement 16, & 45.

Note also that an auereement of too small issues lyeth as well against the returne of the sherife of too small issues returned vpon Jurozs, as vpon the partie &c. for this stat. of West. 2. was made to out all delaies by false returnes; and the partie is as well delaied where the sherife returneth too small issues vpon the Jurozs, as where he returneth small issues vpon the defendant.

Returme of Issues vpon Iurors.

What Issues the Sherife &c. must returne
vpon Iurors.



Vpon every first writ of Habeas corpora or Distringas Iurator. with a Nisi prius, deliuered of record to the

35. H. 8. c. 6.
27. El. c. 6.

Sherife or other Minister, the Sherife or other Minister to whom the making of the returne shall appertaine, shall returne in Issues vpon every person impanelled and returned vpon any such writ at the least x. s. and at the second writ of Habeas corpora or Distring. with a Nisi prius, vpon every person impanelled and returned vpon any such writ xx. s. at the least, and at the third writ x. xxx. s. and vpon every writ that shall be further awarded to trie any such issue, to double the issues last afore specified, vntill a full Iurie be swozne, or the proces otherwise ceased, vpon paine to forfeit for every such returne of issues to the contrary fine pound.

1. 10. s.
2. 20. s.
3. 30. s.
4. &c.
double.

Corporate
villes.

But this extendeth not to any issues to be returned in any citie, or towne corporate, or other town or place privileged to hold plea, nor in the xij. shires of Wales, but that they may be returned as before they lawfully might haue bene, this act notwithstanding, Stat. 27. El. ca. 6.

Note that vpon reasonable cause proued before the Justices of Assise, the said Justices may discharge any Iuroz of the Issues vpon him returned, and the sherife &c. hauing commaundement by the said Justices to omit the returning of such issues as aforesaid vpon such Iuroz, shall be therein discharged of the penaltie aforesaid, for the non returning of the said issues; also if the said Just. of Assise do not come at the day appointed, or that the assise be discontinued for any other occasion (other than by default of Iurozs) then euery of the Iurozs shall bee discharged of their issues &c. and the sherife &c. shall be likewise discharged of the penaltie of these statutes for the not returning of such issues, as therein are limited.

35. H. 8. c. 6.
2 E. 6. c. 12.

Upon a Distring. Iurator (where they were knights, and esquires who were in the writ) there was but viij. s. returned (by the sherife) vpon every Iuroz, and the sherife had bin therfore amerced, but that he was there present, and amended it, and set or returned vpon every Iuroz ii. s.

2 R. 3. 1.

Vic amercc.

By the opinion of Fortescue the Sherife returned vij. s. issues vpon the Distringas, and therefore he was to be amerced, for that hee returned lesse than the costs of the writ of Distresse, which is xij. s. Br. Issues 6.

So that whereas the Sherife vpon a Distringas shall re-^{Amend.} turne too small issues, he may amend his returne, (vide 27. H.8. fol. 3. Br. Issues 1.) But quære whether he shall be amerced for returning too small issues; for it seemeth rather the plaintife shall haue his auerment against the Sherife vpon the aforesaid statute of Westm. 2. and so to haue his writ to the Justices of Assise &c. vt supra.

3.H.7.f.8.

And yet if the Sherife vpon a Distringas Iurat shall returne no manner of issues, and a full Iurie shall appeare &c. this is no error; for the king hath no losse, and the issues are for the king, which hee is not to haue, if a full Iurie doe appeare.

If the Sherife shall returne a Iuroz in issues which is not sufficient, he is punishable, scz. the Sherife shall be charged to pay those issues himselfe.

If vpon an Habeas corpora, or Distringas Iurat. the Sherife ^{Sher Iuroz nisi ent summon.} shall returne any issues vpon any Hundredoz or Iuroz, whereas the same Hundredoz or Iuroz was not lawfully summoned, warned, or distrained in that behalfe, then the Sherife &c. shall loose for euerie such offence double so much as the said issues returned vpon such Hundredoz or Iuroz not lawfully summoned, warned or distrained, shall amount vnto, the one halfe thereof to the king, the other halfe to him that will sue for the same. 5.El.cap.25. & 35.Henric.8. cap. 6.

15.H.6.ca.5

No Sherife, or other officer, shall returne in the Kings ^{In Attaint,} Courts lesse issues in actions of Attaint, than fortie shillings vpon the first writ of Distresse, and five pound at the second writ of Distresse, and the double vpon euerie other writ of Distresse, against the persons impannelled and returned to be Iurozs in the same action, vpon paine to forfeit twentie pound to the king and partie grieved. See the statutes of 11.H.7.c.21. 23.H.8.c.3. & 13.Eliz.cap.25.

al { 1. 40.s
2. 5.li.
3. &c.
double.

What issues shall be returned vpon the Iurozs in London, See 11.H.7.c.21. 4.H.8.c.3. & 5.H.8.c.5. P.Iurors 16. & 17. ^{In Londres.}

8.H.8.c.9.

Vpon euerie precept directed to the Sherife from Justices ^{Sher Forg.} of peace to enquire of forcible entries, or Detainer, the Sherife ^{Entrie.} ought to returne vpon euerie Iuroz, at the first day, or vpon the first precept twentie shillings in issues, and at the second day

Returne of Issues vpon Iurors.

day fortie shillings, and at the third day five pound, and at euerie day after the double, vpon paine to forfeit to the king twentie pound for euerie default, and besides to make fine and ransome.

Shr 17015.

Upon euerie precept directed to the sherife from Iustices of the peace, to returne them a Iurie to inquire of any ryot, the sherife ought to returne vpon euerie person so by him impanelled, at the first day twentie shillings in issues, and at the second day fortie shillings, and the sherife for his default herein shall forfeit xx.l.

19.H.7.c.13

By the statute of 2.H.5.cap 8. vpon a commission granted out to enquire of the defaults of the Iustices of peace and old sheref, in not executing the statute made for suppressing of ryots, the coroners shall returne the enquest, and they shall returne vpon euerie person impanelled, at the first day (when issues be to bee lost) xx.s. at the least, and at the second day xl.s. at the least, and at the third C.s. at the least, and at euery day after the double at the least, vpon paine of xl. l. and if it happen that the said sherife so reputed in default bee discharged of his office at the time that such commission shall bee awarded out of the Chauncerie, then the new sherife of the same countie, his successor mediate or immediate for the tyme being (and not the coroners) shall make the panell vpon the commission, returnable in the manner and forme as the said coroners should doe in time when the sherife so reputed in default continued in his office, and the same new sherife in default of returning such issues, which the coroners be to returne as aforesaid, shall forfeit xl.l. to the king.

2.H.5.c.8.

Issues returned vpon Mainpernoys or Pledges &c. See antea tit. Issues.

*Estreats ser-
ra deliuer in
leschequer
yearely al
Mich.*

By the statute made 51.H.3.de Scaccario, all Iustices, Commissioners, and others, shall deliuer into the Exchequer (at Michaelmas yearely) the Estreats of fines and Amerciaments made and taxed before them, and of all things wherefore the Estreats are wont to bee deliuered there &c.

*Vic ne levier
sans garr.*

No Sherife &c. shall leuie any issues other than hee hath warrant for out of the Exchequer by the Estreats of the Iustices; neither shall the sherife bee charged with (or to leuie) any other issues than those for which he shall haue such warrant

27 E.1 c.2.3
P. Sher. 19.

warrant out of the Exchequer. And in those Estreats every man shall be charged for issues forfeited like as of amerciaments. And by the stat. 43. E. 3. ca. 9. sherifes must leuie their issues by their extracts vnder the seale of the Exchequer, *South seale.* vpon paine to yeeld treble damages to the partie grieved, and to make fine to the king.

7. H. 7. c. 3.

And whereas in former times diuers did loose issues, fines and amerciaments in the kings courts (at the suit of any partie) and also issues and amerciaments in Enquests and Juries wherein they were impanelled betwixt partie and partie, whereupon the bailife &c. which gathered the greene waite did leuie the same issues, fines, and amerciaments by estreats in obscure and ambiguous words, not containing the summe lost, nor making mention of the cause of the losse, nor the day of the terme, nor betwixt what parties, nor the nature of the writ in which the same issues, fines, and amerciaments were lost, so that the said officers did leuie the summe two or thre times, and sometimes the double summe contained in their estreats, for remedie whereof the stat. made an. 7. H. 4. c. 3. hath enacted, That the clerkes of the estreats in the courts or places where such issues and amerciaments

Estreats defective.

P. Estreats 2.

shall be forfeited, shall make the rolls of the estreats of such issues and amerciaments distinctly by expresse words of the cause of the losse, of the terme, of the yeare, and the nature of the writ, and betwixt what parties such issues and amerciaments be or shall be lost, and that aswell in the kings suit, as in the suit of the partie.

Le forme del Estreats.

27. El. 7.

P. Iurors 34.

And now by the statute of 27. El. cap. 7. the sherife in his Corne is to set downe the dwelling place of every Iuroz, & no extract of issues against any Iuroz shall bee deliuered out, or put in vze, without such addition as is put in the originall panell (or tales) wherein such Iuroz shall be returned; and none of the sherifes officers shall collect or gather any issues so extracted of any other person or persons than of such person as (by vertue of the said estreats) is of right chargeable with the payments thereof, vpon paine to forfeit by P. xlii. s. iiii. d. to the king and partie grieved.

Ne leuier si non de droit person.

4. H. 6. 7.

Cröp. 126. a

Note also that if there appeare so many Iurozs, so that twelue are sworn vpon the issue, then the rest which made default shall not loose any issues; otherwise (scz. if twelue do not appeare) those which appeare shall haue their apparance noted, and shall saue their issues, and the rest which made default shall loose their issues. Br. Issues 16.

12. appeare, nul issues sera

And yet when eight &c. of the Jurie appeare, and the rest

Returne of Issues vpon Iurors.

make default by reason wherof they are to loose their issues,
and at the same time the plaintife is demanded, and is non=
suit, this shall saue the issues of the Iurors, quod nota. Br.
Issues 14.

A Iurie doe appeare and after make default, they shall
loose their issues. Br. Enquest 42.

Tales.

Also by the statute of 35. H. 8. where the principall Iurie
do not fully appeare, or that after apparance of a full Jury,
by challenge of any of the parties the Iurie is like to re=
maine bntaken for default of Iurors, there the Iustices by=
pon request may cause a Tales de circumstantibus to be retur=
ned or named by the Sherife &c. But yet those of the prin=
cipall Iurie which made default shall loose their issues not=
withstanding that the Iurie shall bee full vpon the Tales
&c. Br. Issues 16.

35. H. 8. c. 6.
P. Iuror 23.

See Dyer
200. 146. &
376.

Note that a Tales de circumstantibus may bee granted at
the suit or request of the plaintife, or the defendant, as also
vpon and in popular actions; and the Iherife (or other mini=
ster to whom the making of the returne shall appertaine)
shall adde and annex to their former panells, the names of
the persons so named and impanelled vpon the Tales &c.

35. H. 8. ca. 6.
4. P. & M. 7.
14. Elc. 9.

Issues.

Issues.

Note that these Issues lost and returned in respect of Forfeit alroy
non apparance, of persons impannelled &c. shall bee
forfeit to the king, and leuied by the Sherife to the
kings vse.

Sur que tiels issues serra leuie per le vic. &c.

Sur que serr
leuie.

12.H.7.4.2. **S**i home fait impannell, et puis fait feoffement in fee de son terre un-
score le terre serra lye al issues que il perder per default, en apres pend'
cel briefe, Vanifor. (12.H.7.) sed Dauers et Wood contra : Mes per
eux, lon home est distr' et puis alien son terre, cest terre serra charge, et
liable in les mains le feoffee, des issues pend' le proces apres le feoffement
&c. Br.Challenge 160.

Sur purcha-
sor.

Doctor and
Student.

Le heire in taile serra charge oue l'issues per de per son pere in son
vie, & ceux issues serra leuie sur le terre taile, Br.Issues 15.23.

Sur issue in
taile.

Ibid.

Tenant pur vie est impannell sur lurie, & per de issues & denie, le
terre serra charge oue ceux issues, et ils serra leuie sur le possession de
cestuy in reuerfion, Br.Issues 23.

Sur cestuy in
reuerfion.

Ibid.

Home seifie in iure uxoris, est impannell et per de issues, et denie, le terre
serra charge oue ceux issues, et ils serra leuie sur le possession del feme,
Br.Issues 23.

Sur feme.

Si issues sont retorne sur Euesque &c. et puis il est remone, son suc-
cessor serra charge del issues, Br. Issues 25.

Successor.

7.H.6.f.9.

Si home ad per de issues, et fait lease pur ans de son terre, et le vic'
retourne le lessor in issues, le vicount payer eux luy mesme : Et uncore
le vicount poit auer retourne le rent in issues : Mes il ne poit distr' le termor
ou lesee durant le terme, Br.Issues 5.

Lesee.

Br. distr. 41.

Si home ad per de issues, et laners del estr' vient sur le terre, semble
que le vicount poit distraire ceux auers del estr' pur ceux issues, car le
terre est charge del ceo : mes semble que le beasts destreine couient estre
leuant et couchant, vide Doct. & St. fol. 15.a. Fitz.N.B. 101. Br.
Distr 66. vide 5.H.7.1. moratur in lege.

Estr'.

Si lun ioyntenant per de issues, & le auers de son companion vient sur
le terre, ceux auers ne serra distr' pur ceux issues : car laners de son
companion fueront eins per drois, lon laners del estr', fuer la per tort.

Jointenant.

Now

Knights of the Parliament.

Now concerning the choosing, and returning of knights

and Burgesse, of the Parliament, and for the laying
of the shire, and what the shire should be
to do here in

Parliament:

By the statute made, 5.R.2.c.4. every person (be he Archbishop, Bishop, Duke, Earle, Baron, Knight, Citizen, Burgesse, or other) shall upon summons come to the Parliament, &c. And if any shire be negligent in making his returnes of knights of the parliament, or that he leave out of the said returnes any Cities, or boroughes, which be bound and of ancient times were wont to come to the parliament, he shall be amerced.

By the statute made 7.H.4.cap.15. it was enacted that the election of the knights of counties for the parliament shall be made in the forme following, *i.e.* at the next countie to be holden after the delivrie of the kings writ for the election of knights of the parliament, proclamation shall be made in the full countie of the day & place of the parliament, and that all they which be there present (as well suitors duly summoned for the same cause, as others) shall attend and in full countie shall proceede to the election of their knights for the parliament freely and indifferently, notwithstanding any request or commaundement to the contrary. And after that they be chosen, the names of the persons so chosen (be they present or absent) shall be written in an Indenture under the seales of all them that did chose them, tacked to the same writ of the parliament, which Indenture so sealed and tacked shall be holden for the shires returne of the said writ, touching the knights of the shires; and in the writs of Parliament to be made hereafter this clause shall be put: *Et electionem tuam in pleno comitatu tuo faciam, distincte et aperte sub sigillo tuo et sigillis eorum qui electioni illi interfuerunt nobis in cancellaria nostra ad diem & locum in brevi contentum certificet indilare, stat. 1.R.4.1.6. H.6.4.23.H.6.15.*

And after by the statute made vndecimo Henrici quarti capitul. primo et 8.Hen. 6. cap. 7. it was further ordained that if it be found by enquest before Justices of Assise that any

any Sheriffe shall make any returne contrary to the tenor of the former statute made 7. H. 4.

That then the said Sheriffe should forfeit one hundred pound to the King, and have one yeares imprisonment without bayle. And besides the knights so unduely returned shall loose their wages, &c. of old accustomed: But yet the Sheriffe and knights may have their Traverse to such enquests, &c. 6. H. 6. cap. 4.

Also by the statute made An. 23. H. 6. cap. 15. The Sheriffe making any returne contrary to any of these statutes, shall forfeit another hundred pound to the other person chosen knight for the Shire, and not duely returned.

1. Hen. 5.
8. H. 6.

By the statute made 1. H. 5. c. 1. & 8. Hen. 6. It was enacted that none should be chosen knight of the Shire, unless they bee resident within the Shire where they shall be chosen, the day of the date of the writ of the summons of the Parliament. And by another statute made 23. Hen. 6. the knights of the Shires for the Parliament, must be notable knights, or such Esquiers, or Gentlemen borne, of the same County, as be able to be knights.

Quex per-
sona terra
essie.

Also the choosers of the knights for the Parliament ought to be onely of such persons as are resident and dwelling within the said Shire &c. 1. Hen. 5. 1. & 8. Hen. 6. 7.

Also the choosers of Burgesses for the Parliament, must be onely of Citizens and Burgesses resident dwelling, and free, in the same Cities and Boroughs.

Esliors
quens.

Note that this election of knights and Burgesses, may be by voyces, or by holding up hands, or by any other like way whereby it may be discerned who hath the greater number. Plo. 123. & 128. b. Bucklies Case.

Election
coment.

Also by the said statutes made 8. H. 6. & 10. H. 6. It was ordained that no person shall be a chooser of the knights for the Parliament, except he hath freehold lands or Tenements within the same County, to the value of fortie shillings by the yeare at the least above all charges: And that such as have the greatest number of them, which may dispend fortie shillings per annum as aforesaid, shall be returned knights for the Parliament, by Indentures sealed betweene the Sheriffe, and the said choosers: And the Sheriffe hath power (given to him by the said statute) to examine vpon oath every such chooser, how much hee may expend by the yeare.

Esliors in nra

Note that the election of knights for the parliament, ought to bee made by the Sheriffe in his full County; and betweene

Knights of the Parliament.

betwene the howers of eight and eleuen before noone, without collusion, vpon the paines aboue limited, and this by the statute 23. H. 6. cap. 15.

So then Sherifes ought to make due election of knights for the parliament, by the freeholders of the Countie, and in open County Court, and betwene eight and eleuen of the clocke in the forenoone, And ought to returne for knights of the parliament, such persons as are so chosen by the greater number of the freeholders (dwelling within the said County) which may expend forty shillings per annum, at the least, vpon the paines aboue limited: See Dyer fol. 60. where Bronker Sherife of Wiltshire was sued in the Star Chamber vpon an Information of perjury at the Kings suite, for a false returne made of Sir Iohn Thin to be knight of the Parliament for the said County, wherein truth, Penruddocke was chosen by the greater number of the freeholders in the said County, in deceit of the County, and of the whole Realme.

Burgesses.

Also euery Sherife after the receit of the Kings writ for summoning of the Parliament for the election of knights for the parliament, ought forthwith to make out his warrants vnder the seale of his office, to euery Maior, and Bailifes of Citie and Boroughs, within the County, commanding them thereby to choose Citizens and Burgesses to come to the parliament. And those Maiors and Bailifes must make a lawfull returne of that precept to the Sherife, by Indentures made betwene them and the Sherife of their election, and of their names which are elected. And the Sherife must set his hand and seale of Office to the one part of the Indentures, and then deliuer it to the Maior or Burgesses, or Citizens to be kept, And to the other part the Maior, or Citizens, or Burgesses must set their hands and seales, and deliuer it as their deeds to the Sherife, to be certified and returned by him, with the writ of Summons, to the Clarke of the Crowne (who will haue iiii. s. for his fees, for euery Indenture.) And the Sherife ought to make a good and true returne of all this, vpon the paines aboue limited.

Note that if the Sherife shall doe any thing contrary to this statute of 23. H. 6. 15. Or of any other statute made for the election of knights to come to the parliament, he shall incurre the paine of one hundred pound to the King, and imprisonment for one yeare without baile; And further shall pay to the party so chosen knight, Citizen or Burgess, and not by him duely returned (or to any other person, who

23. H. 6.
cap. 15.
Crompt. 107

in

Knights of the Parliament.

122

in default of such Knight, Citizen or Burgesse, will sue) one other hundred pounds, to be recovered by action of Debt, &c.

The forme of the Indenture for the Knights of the Parliament.

Hæc Indentura fact. in pleno Comitatu Cantuariensi. die Iovis. 30. Maij Anno regni &c. (resisting the Kings Stile at large) inter A. B. Milit. vic. comitat. prædict. ex vna parte, & I. Cane milit. T. Pal. Armig. et M. D. R. T. et I. B. Armig. &c. et multis alijs personis Comit. prædict. et elector' duorum milit. ad parlamentum in breve huic Indenturæ confut' specificat. ex altera parte, qui ut maior pars totius comitatus prædict. tunc ibidem existens, Iurat. et examinat', secundum vim formam et effectum diuersorum statutorum inde ædit'. et prouisor' : eligerunt Ed. Peyton milit' & Barroñ et Iohannem Catus milit. infra comitat. prædict. comorantes gladijs cincti. milites, habiles, et majus idoneos, et discreti; dantes et concedentes prædict. duobus milit. plenam et sufficientem potestatem pro se, et totum comitat. comitatus prædict. ad faciend. et consentiend. hijs quæ ad parlament. in dict. brevi content. de communi consil. regni dicti domini regis nunc Angliæ, contingerit ordinari, super negotijs in dicto brevi spec. In cuius rei testimonium vni parti hujus Indent. penes dictum dominum regem remanent. partes prædict. sigilla sua apposuerunt, alteri vero parti ejusdem Indent. prædict. vic. sigill' suum apposuit, datum die Anno et loco supradict. &c.

The forme of the Indenture for the Citizens or Burgeses.

This Indenture made &c. (resisting the day, and yeere, and the Kings stile at large, as before &c.) Witnesseth, that by vertue of a Warrant to me directed from Sir A. B. Knight Sherife of the County of Cambridge, for the electing and chosing of two Burgeses, men of good vnderstanding, wit, knowledge, and discretion, for causes concerning the weale publike of the Realme, to be at his Majesties high Court of Parliament to be holden at his Highnesse Citie of Westminster the day of next comming, I Maior of the Borough or Towne of Cambridge, with the whole assent and consent

Knights of the Parliament.

sent of the rest of the Burgeses there, haue made choice and election of _____ of _____ Esquier and of _____ of _____ Esquier, to be Burgeses for our said Borough of Cambridge, to attend at the said Parliament, according to the tenor of the said Warrant to mee directed in that behalfe. In witnesse whereof I haue to these presents set our common seale of our said Borough, the day and yeere first aboue written.

*The Knights
fees or wages,
&c.*

Also Sherifes when they haue receiued letters or writs for the leuying of expences of the knights of the Parliament, at the next County Court, after the receit of those letters, ought to make open proclamation, that the Coroner, and euery chiefe Constable of the said County, and Bailifes of euery hundred of the same County, and also all other which will be at the assessing of the wages of the knights of the Shires, shall be at the next County there to be holden to assele the said wages: And the Sherife, Undersherife, Coroner, and Constables, & Bailifes of hundreds, ought to be there in person to sesse the wages, vpon paine of fortye shillings to euery one that maketh default; And then the Sherife or Undersherife, in the presence of them that shall come, ought to assele euery hundred at a certaine summe by it selfe, and after they ought to assele euery Village within the hundreds, with a certaine summe, and if they shall make any assesment otherwise, they shall forfeit for euery default twenty pound to the King, and besides ten pound to any man which will sue in this case, with treble dammages.

*Quenx per-
sons attender*

Also if any Sherife, Undersherife, bailife, or other officers shall leuy (for the cause aforesaid) more money of any Village, than that whereunto they be assessed, they shall forfeit (for euery default) to the King twenty pound, and ten pound to any other which will sue for the same besides treble dammages for the costs of their suits.

The Sherife well and duely shall leuy the moneys so assessed vpon the Villages as speedily as they well may after the said assessing; and the same shall deliuer to the said knights according to the said writs vpon the penalties aforesaid; And the Sherife may distreine for the same F. A. uow. 260.

But such expences of knights shall not be assessed nor leuied of any other Villages, seignories or places, but of such whereof it hath beene anciently leuied. See 8. R. 2. Fitz. Avow. 260.

Also (it seemeth) that the Freeholders and Tenants of such

P. Parlia-
ment 12. 13.
H. 6. c. 11.
Crompt. 107

23. H. 6. c.
11.

Ibid.

Ibid.
Register
191. 192.

F. Avowrie.
160.

12. R. 2.

such Lords, &c. as come to the Parliament, are not to be assessed to such charges, for their tenancies or lands holden of such Lords: And yet by the statute Anno 12. R. 2. cap. 12. if any Lord, or any other man spirituall or tempozall, hath purchased any lands, tenements, or other possessions that were wont to be contributarie to such expences, before the time of their said purchase, the said lands and tenements, and the tenants of the same shall be contributory to the said expences in such manner as the said lands, &c. were wont to be before the said purchase.

34. H. 8. c. 24.

Note that by the statute made Anno 34. H. 8. cap. 24. the Countie of Cambridge, and the inhabitants of the same, are discharged of all such summes of money, to bee leuped or paid for the fees of their knights of the Parliament for the said countie: And the mannor of Burlewes lying in Waddingley in the said countie of Cambridge, is charged with the payment of x. li. yearly for ever, at the feast of Saint Michael the Archangell, for the said fees or wages of the knights of the said shire or countie: And the Sherife, and two knights of the Parliament of the said countie are incorporated for to sue for the same: And the said knights, and the turnuor of them, shall haue and perceiue the same to their owne vse towards their charges: And if both the knights of the said shire bee dead, then the Sherife of the said shire for the time being, shall haue the same rent of x. li. to his owne vse, untill other knights shall be chosen for the Parliament, &c.

Cambridge-shire.

Note that for the fees or wages of the knights for the Parliament, the Sherife may distraine the goods of the towne, or of any of the towne, scz. may distraine the whole herd belonging to the towne, or the cattell or other goods of any particular person of that towne: 11. Hen. 4. 2. Br. Distress. 95.

Mes quant le vicount (ou auter officer) vient par distreine et veia les auers, si lowner del cattel ou auter person eux chafe hors del ville, semble le vicount ou officer ne poet eux distreine in auter wille: vide 16. E. 4. 10. Br. Distr. 51.

Note also that the therife or other officer may sell the distresse taken by them for the fees, wages, or expences of the knights for the Parliament: see hic antea tit. The Kings Debits.

Redisseisin.

The Sherifes dutie in executing the Writ of Redisseisin.

Redisseisin.



Here a man hath recovered any lands, rent, com-
mon, or other tenements (by Writ of Novel dis-
seisin, Mortdaucester, Iuris Vtru, or other action,
which passe by Juries and verdicts, or by confes-
sion of the disseisor) and is put in possession thereof by the
sherife (by writ de habere facias seisinam) and after the same
plaintife, is redisseised of the same lands, rents, commons,
or other tenements by him by whom hee was formerly dis-
seised, then the disseisee shall haue a writ * to the Sherife,
or by which the Sherife shall bee commanded, that hee, ta-
king with him the keepers of the pleas of the kings crown,
(scz. the Coroners,) and other knights, in his proper person
shall goe vnto the lands or tenements, pasture, or grounds
whereof the plaint was made, & that hee make before them
(by the first Jurors, and other neighbors and lawfull men)
diligent inquisition thereof, & if they find him disseised again
(as aforesaid) that then the Sherife shall forthwith take
such disseisor and commit him or them to prison, there to re-
maine untill the King shall discharge them, &c. And that
vpon a fine to be made to the King for the offence.

20.H. 3. c. 3.
Fitz. 188. b.
& 190. a.

* Scz Breve
de Redissei-
sin.

Inquisition.

Imprison.

But the Sherife shall execute no such plaint (or thing)
without the Kings speciall writ; and if the Sherife shall de-
liuer any such persons as are convicted of Redisseisin, with-
out the speciall commandement of the King, the Sherife
shall be grievously amerced, and besides the parties so deli-
uered shall be grievously punished: 52. H. 3. c. 8. Fitz. 189. c.

20. H. 3. c. 3.

Dyer 61. a.

Also by the statute of Westm 2. (made anno 13. E. 1. cap.
26.) the Redisseisors shall not bee repleuable by the Com-
mon writ.

Where a man is convicted of Redisseisin, hee ought to
make his fine in the Chauncerie, and from thence to
haue a writ directed to the Sherife, making mention
that he which hath made his fine with the king for the Re-
dissesein and commanding the Sherife to enlarge him &c. And
this was the opinion of the court (except Inglefield) Anno

18. H. 8. c. 1.

18. H. 8.

28.H.8.fol.1. for that the words of the statute of Marleb. cap.8. be that such offenders shall not be delivered without the Kings speciall commandement &c. And this speciall commandement cannot be but out of the Chancerie: But in the same case Inglefelde held that the Justices of the common pleas, having the record before them (by a Certiorare) that the Justices there had power to assesse the fine, and to award such a speciall writ out of that court to the sherife, to set the prisoner at large: And that such a writ issuing out of that court was the speciall commandement of the king; and that the meaning of the statute was onely to prohibit the sherife to assesse the fine, and not to prohibite the Just. who are Justices of record so to do, Ideoquare.

*Special com-
mandement
le Roy.*

But note that the sherife is not to dispute the authoritie of the court &c. See Co.6.54.et hie lantea fol.

And yet See Fitz.190.f. if a man be convicted before the sherife of Redisseisin, before hee shall be delivered out of prison, he ought to remoue the record into the kings Bench & there to make his fine with the king &c.

If a woman couert shal commit a Redisseisin, shee shal be imprisoned by the sherife, according to this stat. Co.9.72.

The reason of the punishment inflicted by the Law upon Redisseisors, or such as shall disseise others who are in by judgment of Law, is chiefly to avoid oppression, and that there might be end of suits, for otherwise malicious persons by their infinite vexations would weary such as haue right & in the end compell them to relinquish and giue over their right, contrarie to the Rule and reason of Law, and the dishonour of the common lawes of this realme. with others infinitenesse and protraction or delaying of suits, Co.6.fo.9.

West.2.16. Per statutum de West.2. ca.26. Tels auera remedy per brieve de Redisseisin, queux ont reconer per default reddition, ou in ascun auer manner, sans recognition Assisar, siue Iurato. 13.E.1.c.26. *Regule.*

West.2.18. Auxy per mesme le statute cap.18. Tenant per Elegit auera brieve de Redisseisin, scz. si il soit ouste &c. il primes reconera per brieve de Novel disseisin, et postea per bre' de Redisseisin, si besoigne. Fitz. 189.i.

Auxy tenant per statute merchant ou staple, auera brieve de Redisseisin, &c. stat. de mercatoribus, 13.E.1. Fitz. 189.i.

Et issint semble de tous auters, que sont estate in terres &c. per Iudgment de Ley.

Mes si le disseisee reconer son seisin, & puis enter & apres est ouste per mesme le disseisor, icy il nauera brieve de Redisseisin, pnr ceo que nauoit

Redisseisin.

seisin deliuer a luy per le vic' per brieſe de Habere fac. seisinam, mes ad enter luy meſme apres son reuenerie vide Br. Redisseisin 5.

Nota que sur brieſe de Redisseisin direct al vicount, le vic' doit seer in proper person, (& nēy per Atturney, nec per son Southvic':) car icy il est fait Iudge de record.

Sur brieſe de Redisseisin, si le vicount preigne linqiſition denant luy meſme ſole, Ou deuant luy meſme et un Coroner, et le Redisseisin est troue, & le diſſor' ouſte, il auera Aſſiſe: Et si le diſſor' in tiei caſe ſoit commis al priſon per le vic' il auera action de faux imprisonment de ceo vers le vicount. Car le inq̄ſition ſuit priſe coram non iudice; car le ſtat. de Merton cap. 3. ac etiam le brieſe de Redisseisin direct al vic' dit quod aſſumptis tecum cuſtodibus placitoꝝ Coroꝝ, &c. Et ceſt parol (cuſtodibus) in le plurall number ne poet eſte ſatiſſe oue un Coroner, si ſont pluſors que un, vide Co. 10. 103. et 23. Aſſ. pl. 7. Br. Redisseisin 3. et M^r Plo. fol. 393.

Auxy les parols del ſtat. de Merton, ſont que il ſerra inq̄ſition per primos juratores, et alios &c. Et pur ceo conient que ſont ij. del primer Iurors al meins; & ſi tous les primer Iurors ſont mōrts, ou tous forſque un, donque il nauera Redisseisin &c. Fitz. 189. l.

Auxy coment que tous les primer Iurors ſont in vie, vncore le vic' prender deux auters al meins; auterment eſt coram non iudice, & br'e de error gira.

Les primer Iurors ne ſerra priſe in le Redisseisin, ſinon que ils paſſe ſur le principall del action; & nemy ſur enquirie de damages.

Le partie poet auer challenge a les auter Iurors, mes nemy al primer Iurors.

*Auxy ſemble per les parols del ſtat. de Merton, ac etiam per parols del brieſe (in propria perſona, accedat ad terram) que le vicount doit s' ſon enquiry, & prender le inq̄ſition ſur le terre, ou tenement, de queux complaint eſt fait, & vncore ſi le vicount viender, & cauſer le Iurie de vener & veier le lieu, terres, ou tenements, que donque il poet prender & s' le inq̄ſition in auter lieu; car les parols del ſtat. & del brieſe, eſteant, quod accedat ad terram &c. ceo eſt obſerue per vener illuc, coment que lenquirie, & verdict ſoit al auter lieu: (mes ſemble doit eſte deins meſme le ville ou le terre giſt.) 11. H. 4. fo. 6
Co. 8. 152.*

In Redisseisin in diuers villes, le vicount & caroner ira al touts les villes, mes ils poet prender lenqueſt a l'un ville tantum per Ca: 40. Aſſ. p. 23. Iſſint eſt in brieſe denquire de waſt in diuers villes, quod vide hic antea tit. waſt. fol. Br. Rediſſ. 5.

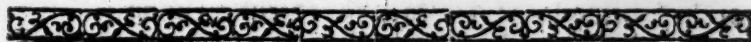
Auxy le vic' poet varier del retorn del bailiſe, & poet mitter ſur le e- queſt tiels que ne ſuer' retorne per le bailiſe, car le vic' meſm' eſt le perſon que fait larray, que auxy eſt Iudge in le caſe: Et vnc' lou le vic' (in tiel caſe) ſerr' ſon precept al bailiſ de retor' le Iury, que retorn' cē, & il maūd cē ret' cōe parcell del record, per ē le vic' ad affirme le ret' del bailiſ & icy ſi 11. H. 4. fo. 6.

Entry by force to execute Proces.

135

*fi le vicont varier del Retorne le Bailife (& prender lenquest per auters)
cest semb. deste error.*

*Nota que cest breve de Rediffesin, nest que enquest de offic. Br. At-
teynt, 1. & 79.*



*Where the Sherife &c. may breake open an house,
or breake open the doores &c. to execute
the Kings Proces or Writ.*

Co. 5. 97.



When any house is recovered in or by any reall
action, or by any Eiectione firmæ, There the
Sherife or officers, vpon an habere facias seisi-
nam, or possessionem, may breake the house and
deliuer seisin and possession therof to the plain-
tife, for that after Judgement it is no more (in right or in
the Judgement of law) the house of the def. or Tenant.

Co. 5. 97.

But the Sherife nor his officers cannot iustifie the brea-
king of any mans house to make execution vpon a Capias ad
fatistaciendum; Nor to breake any house or chest &c. to
make execution by vertue of a Fieri facias; Nor to execute
any other the Kings proces vpon the body or goods of any
person, at the suite of any subiect; and if he doe, he is there-
in a Trespasser. But where the King is a party, there the
Sherife may iustifie the breaking of the house to doe execu-
tion of his proces, if he cannot otherwise execute his pro-
ces; And yet first he there ought to make request to haue the
dooze opened, and must withall signifie the cause of his
comming. Co. 5. 91.

Ibid.

Note that in all cases where the King hath any interest,
the writ is Quod non omittas propter aliquam libertatem,
and therfore the priuiledge of any mans house will not hold
against the King: But where the King hath no interest, but
only a common person, There the Sherife, although he make
request to haue the doozes opened &c. and that deniall bee
made him to enter &c. yet he may not breake them, and so en-
ter & doe execution of his proces, for by such meanes great
inconuenience might arise, that men in the night, aswell as
in the day, should haue their houses broken open, vpon
any fayned matter. For although that the Sherife
himselfe bee a man of especiall note and worth, and his
office of great authoritie and trust, yet wee see by dayly

Entry by force to execute Proces.

experience, that all of the most part of the Kings writs are served and executed by their Undersherifes and Bailiffs, which most commonly are persons of small worth and account.

And yet where the Sherife shall breake a mans house, or chest, being lockt, &c. to make execution upon a Fieri facias, although he shall be punished as a trespasser for breaking the house, or chest, yet he shall not be punished for taking the goods, 18. E. 4. fol. 4. but the execution which the Sherife so made, is good. Co. 5. 93.

Note that in all cases where the doore is open, the Sherife and his officers may enter into the house, and make execution, at the suite of any subject, either of the body or goods: Co. 5. 92. Quere if the doore be shut to, and onely latched, (but not locked nor barred &c.) whether the officer may not draw the latch, and so enter.

Also note that in all cases where the King is a party (as for felony, &c.) or hath interest in the businesse, the Sherife and his officers, if no doore be open, and that they cannot otherwise enter, may breake open the doores, or house of the partie offending, or any other house where the party is, to arrest the offendour, or to make other execution of the Kings Proces, &c. Co. 5. 91. 92.

As if a man be Indited of trespassse, and a Capias pro fine be awarded to the Sherife to take the body of the same person, The Sherife may breake open the party or offendours house, or doores, or any other mans house wherein the offendour shall be, to arrest the offendour. And so upon Hue and Cry leuied after one who hath stricken another, so as he is in any danger of death. 7. E. 3. fol. 16.

If a man be outlawed of treason, or felony, or in any personall action, whereby a Capias velagatum shall be directed to the Sherife to apprehend and take him, the Sherife &c. may breake open the house to apprehend him.

See more hereof in my Country Iustice, titulo forcible entrance.

But note that though the King be a party, yet the Sherife and his officers &c. before they shall or may breake open any house or doores, they ought to signifie the cause of their coming, and to make request that the doores may be opened, &c. Co. 5. 91.

Also note that no mans house shall be any priuledge to or for any stranger; Nor shall extend to protect any person that shall be there, or lie thither, Nor to protect the goods of any

Co. 1. 97.

any other that shall be brought or committed thither, to prevent any lawfull execution, or to escape the ordinary proces of law. But the priviledge of every mans house shall extend onely to himselfe and his family, And so and for his proper goods, or to such as are there lawfully and without fraude or coun: And therefore if the Sherife having proces to be executed vpon the body or goods of any stranger, doe desire to haue the doore opened, or to haue the body of the party lying æ. thither, or the goods of another brought thither, to be deliuered vnto him, After such request made to open the doore, or to haue the body, or goods, of such person deliuered him, if deniall or refusall be made, or that it be not done, Then the Sherife or his officers may breake open the house and may execute the proces without any danger of law.

Also if the Sherife doe breake open the house (in any the cases aforesaid) where any of the doores of the same house be open whereby he may enter, or where he may open the doore by a key, or otherwise, without breaking of the house or doore, he is a trespasser and subject to an Action.

*Where the Sherife &c. may take
Posse Comitatus.*

The Sherife, or his Undersherife, or Bailife æ. may (may ought if need be) to take the power of the Countie, (scz. what numbers of persons they shall thinke good) to aide him, or them, to execute the kings proces or writ, (be it a writ of execution, Repleuin, Capias, &c. or any other writ) it being the kings commandement; And such as shall not assent the Sherife æ. therein, being required, shall pay a fine to the king. Bro. Parliament & fines 37. & Trespasse 266.

Posse Comitatus.

West. 2. 13.
E. 1. 97.

The statute of Westminster 1. cap. 39. is direct and full in this point saying, Sherifes make many times false answers, returning that they could not execute the kings precept, for the resistance of some great man; wherefore let the Sherife beware from henceforth, for such manner of answers redound much to the dishonor of the king. And as soone as his Bailifes doe testifie that they haue found such

Posse Comitatus.

such resistance, forthwith all things set a part (taking with him the power of the shire) he shall goe in proper person to do execution &c. See hic antea fol.

Also by the statute of West. 1. ca. 17. If a distresse bee impounded in a castle or fortreffe, and detained, the sherife or bailife taking with him the power of the shire &c. may cause the said castle or fortreffe to be beaten downe. See hic postea.

And by the booke 19. E. 2. Fitz. Execution 147. vpon a writ of Seisin, the Sherife returned that he could not deliuer seisin for resistance, and for that the sherife did not take the power of the countie, according to the statute, he was amerced twentie markes.

So in a Repleuin, if the sherife returne that the cattell are in a fort, or a castell, so as he cannot make deliuerance, he shall be amerced, causa qua supra.

Note where the sherife, or other officer, is enabled to take the power of the countie, they may command, and ought to haue the aide and attendance of all knights, gentlemen, yeomen, husbandmen, labourers, tradesmen, seruants, and apprentizes, and of all other such persons, being about the age of 15. yeres, and that are able to trauell: to which purpose also, see the sherifes patent of Assistance (here before fol.) whereby there is commandement giuen to all Archbishops, Bishops, Dukes, Earles, Barons, Knights, and all other the kings subiects within the same countie, to be aiding to the sherife in whatsoeuer belongeth to his office.

And in such cases they are not appointed any number, but it is referred to the discretion of the sherife &c. what number they will haue to attend vpon them, and how, and in what manner they shall bee armed, weaponed, or otherwise furnished.

The Sherifes bailife to execute a Repleyn, tooke with him three hundred men armed (modoguerrius) sc. with Brigandines, Jackes, and Guns, and it was holden lawfull; for the sherifes officer hath power to take assistance, as well as the sherife himselfe. Br. Ryots 2.

Also the sherife may take Posse Comitatus, in defence of the realme, when any of the kings enemies shall inuade the land &c. See here before fol.

The sherife also may take Posse Comitatus (any number that he shall thinke meete) to pursue, apprehend, arrest, and imprison traitors, murderers, robbers, and other felons, or such as do break, or go about to break, or disturbe the kings peace.

The

P. Recu-
sants 52.

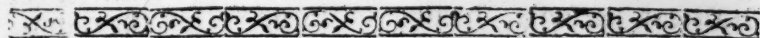
The Sherife &c vpon any lawfull warrant, for the apprehending of any Popish Recusant &c. may take Posse Comitatus. See the statute 3. la. cap. 4.

A man demands the Peace in the Chancery against a great Lord, and hath a Supplicavit directed to the Sherife &c. there if need be, the Sherife may take Posse Comitatus, to aide him to arrest such a Lord &c.

The Sherife also may take Posse Comitatus, to execute the precept or warrant of the Iustices of Peace: as in case of forcible entrie, to make restitution &c.

But it seemeth in such cases where the power of the County is to be raised or taken, that the Bailife must haue warrant from the Sherife to doe it, and that he must bee a knowne Bailife or Officer, that must doe it.

Also this seemeth to be by force of the Common law, and that the statutes of Marl. cap. 21. & Westminster 1. cap. 17. & Westminster 2. cap. 39. are but a confirmation of the Common law, for the taking of the power of the County by the Sherife, to execute the Kings writ and Commandement by writ.



Baylement of Prisoners by the Sherife.

Minsh.

Baylement is properly the freeing or setting at liberty, of one arrested, or imprisoned, vpon action, either Ciuill or Criminall, vpon sureties taken for his appearance at a day and a place certainly assigned, Bracton. and cometh of the French word Bail-
ler. i. tradere, to deliuer vp, because he is then deliuered into the hands of them, that bind themselves for his forth coming. Master Manwood maketh a great difference, betweene baile, and mainprise; for (saith he) he which is mainprised, is alwayes said to be at large, and to goe at his owne liberty, out of ward, after he is let to mainprise, vntill the day of his appearance: But it is otherwise where a man is let to baile, vntill a certaine day, for there he is alwayes accounted by the law to be in the ward or custodie of his sureties, for the time they vndertooke for him: and they may, if they will, keepe him in ward or prison, all that time: So that he that is bailed, shall not be said to be at large, or at

Baylements

Mainprise.

Baylement.

at his owne libertie. See master Lamberts Iustice of peace, tit. Bailement, agreeing with this difference.

But in our law, these two words Bailement, and Mainprise, are notwithstanding indifferently used, to expresse that suretie which the prisoner is to find in such case, Lamb. Ibidem.

And yet Bailement seemeth to implie the deliuerie, and Mainprise the receiuing of the prisoner &c. and so these two words to be Relativa.

Detaine persons baileable

If the Sherife, vnder Sherife, or bailife &c. shall Detaine any prisoners who are baileable, after they haue offered sufficient sureties, the Sherife &c. shall bee therefore greivously amerced to the king.

Baile persons not baileable

If the Sherife, vnder Sherife, or other officer, shall let to baile any persons which are not baileable, they are also punishable therefore by the Judges of gaole deliuerie, See the statutes 3. E. 1. c. 15. 27. E. 1. c. 3. & 23. H. 6. c. 10.

P. Main. 3. 4
Fitz. 251. b.

Queux persons baileable

Sherifes, Under Sherifes, and other officers ought to let to baile, and out of prison all manner of persons being in their keeping, or by any of them arrested by force of any writ, Bill, or Warrant, in any action personal, or vpon any Indictment of trespassse, vpon offer of reasonable suretie (of sufficient persons, hauing sufficient within the countie where such persons bee so let to baile) to appeare at the day and place, as the said writs, Bills, or Warrants shall require, except such persons as are hereunder mentioned, scz.

23. H. 6. c. 10
Fitz. 251. b.

vpon Capias } ad Satisfaciendum.
 } Vtlagatum.
 } Excommunicatum.

Fitz. 251. b.

Except all such as are in their custody.

For suretie of the peace.

By commandement of any Iustice. See Stamf. 73.

And vagabonds, or vagarant and idle persons refusing to serue, and which remaine in prison vnder the custodie of the Sherife, Fitz. 251. b.

This first branch of the statute of 23 H. 6. is a precept and commaundement to Sherifes, that they shall let to baile prisoners which are arrested in personall actions &c. the which Sherifes could not do before this statute. Co. 10. 100.

23. H. 6. c. 16
Plo. 63.

The second branch of this statute was to restraine the bailing of others contained in the exception; so that Sherifs shall

shall not baile any such persons as are in execution upon any statute, or recognisance, or upon any judgement given in any of the kings courts for any debt or damages at the suit of any person, for that such persons shall not be bailed, nor suffered to go out of prison by bailon, (scz. with a keeper) untill they have agreed with the parties of that whereof they were judged, or for which they are in execution (unless it be by writ, or other commandement of the king.) See the statutes of Acon Burnell, & de Mercator made 13 E. 1. 1. R. 2. cap. 12. & Fitz. 12 1. a. & 25 1. d.

Neither shall sherifes baile any prisoner or person which is taken for any manner of treason or felonie. See the statute of Westm 1. cap.

See more in my Countrie Justice tit. Bailement, what persons are baileable, and what not.

If the sherife, undersherife, or other officer shall detain any prisoner who is baileable as aforesaid, after sufficient sureties by the prisoner offered, or shall let to baile any person which is not baileable as aforesaid, such sherife or officer shall loose to the partie indamaged or grieved treble damages, and besides shall forfeit forty pound to the king and Informer.

Note that the bailife or other officer which arrests one by vertue of any warrant &c. ought to take sureties of the partie arrested (if he be baileable) upon paine of forty pound, and this by force of this statute of 23. H. 6.

And therefore the prisoner is not bound to go to the sherife if he offereth sufficient sureties to the bailife.

The abuses of sherifes in bailing of prisoners, before this stat. of 23. H. 6. See in Plo. 67.

The third branch of the statute is to make obligations taken in other forme than the statute limits and appoints to be void.

Now for the forme of such obligations as the sherife, or his officers shall take (for the apparance) of such as they shall let to baile, the words of the statute are thus; No sherife, nor any of his officers or ministers, shall take, or cause to be taken, or made, any obligation for any cause aforesaid, or by colour of their office, but onely to themselves, of any person, nor by any person which shall be in their ward† (by course of the law) but by the name of their office, and upon condition written, that the said prisoner shall appeare at the

Officer prom-
der sureties.

Forme del
Obligation:

* Nota ceux parols, & vide eux bien expound, Plo. 10. 68.
† Vide Plo. 69. a.
Co. 10. 1. c.

Bailement.

the day contained in the said writ, Bill, or Warrant, and in such places as the said writs, Bills, or Warrants shall require.

If the Sherife, Undersherife, Bailfe, or other person shall take any bond or obligation of any person being in their custodie, in any other forme, by colour of their office, such obligation shall be void, and besides the Sherife (or other officer) taking such obligation contrary to this statute shall loose to the partie indamaged or grieved in this behalfe his treble damages, and besides shall forfeit xl. l. to the King and Informer. Pl. 68.

Now then seeing that Sherifes, Undersherifes, and other officers, after they haue arrested one who is baileable, they then are to baile, and ought to take bond for the apparance of their prisoners, befoze they deliuer them, it behoueth them to be heedfull and carefull that their bonds be made according to law, wherein let them marke these obseruations. 23. H. 6. c. 10

First, the bond must bee made to the high Sherife himselfe or to his vble by the name of Sherife, and not to the Undersherife.

Next there must bee nothing incerted or put into the condition of that bond, but onely that the defendant shall appeare (in the court, from whence the writ issued, or in such place as the said writ or Warrant shall require) at the day contained in the said writ or Warrant, being the day of the returne thereof. Pl. 68.

And yet if the condition be to appeare generally, or to appeare & answere, or to appeare in person, it is good enough, notwithstanding such addition. See postea.

3 Also concerning the prisoner or partie to be bailed, it is meete, and safest for the Sherife, that he be bound with two sureties, hauing sufficient within the same countie; but this is not of necessitie, but onely for the safetie of the Sherife.

*1. Serra al
vic' tantum.*

A bond entred into by a prisoner, to any person saue only to the Sherife, for the enlarging of the prisoner, is not good, but meere void in law, by this statute of 23. H. 6. Crōp. 106. a

And with this agrees the booke of 7. E. 4. 5. where one was in the custodie of the Sherife, by force of a Capias directed to him vpon an indictment of trespassse, and the partie maketh an obligation to another (by the denomination of the Sherife) vpon such condition as the statute prescribeth, (for the suretie or securitie of the Sherife) and there it is holden that the obligation is void, for that the statut prescrib-
that Co. 10. 100. b.
Pl. 68.

that the obligation shall be made to the Sherife himselfe, and this is part of the essentiall forme of the statute.

Crōp 106. a
7. E. 4. fol. 5.

A Sherife had one in execution for a great summe, and after the Sherife tooke an obligation (of the party which was in execution, and of diuers others) in his sonnes name to pay to him at a certaine day &c. and so let the prisoner go at large, this was holden to be an escape, & the bond clerely void; it was the Sherife of Stafforshire his case Anno 31. Eliz. as Master Crompton reporteth.

Ibid.

And so is it where a bond is given to the Sherife by a stranger for the enlargement of a prisoner, the bond is void. *Escape.*

Co. 10. 100.

But note that this statute of 23. H. 6. extends onely to such obligations which any person being in the custody of the Sherife do make unto him, and therefore Anno 34. Eliz. in an action of debt brought by D. Sherife of B. against Burman upon an obligation, the defendant pleaded this statute of 23. H. 6. and shewed that on K. recovered debt and damage against him, and pursued a writ of Fieri facias against him, directed to the Sherife of B. and that he made the obligation to the plaintife (being Sherife) for the execution, and that the obligation was void by the Act, upon which the plaintife demurred; and it was resolved and adjudged, first that the obligation was not within the said statute for that the statute extends onely to such obligations which any being in his custody do make unto him, &c. That the obligation was not void by the common law, whereupon the plaintife had judgement. *Fait per estr.*

* Meacy le
pty ne suit
cōtō custody
car suit sur
Fieri fac.
Co. 10. 99. b

And so in Beawfages case, the Sherife upon a Fieri facias, tooke bond of the defendant to pay the money in court at the returne of the writ, and it was resolved that such obligation was good, and not void by the statute of 23. H. 6.

Co 10.
100. a

The like judgement was given in 28. et 29. El. between Burwey and Kert upon an obligation taken by the Sherife, p solutione pecunie debite domina Regina, upon an extreate out of the Exchequer. *Sur effreate.*

But if the Sherife shall take an obligation of any person being in his custody or ward, then the condition of such obligation must be in substance according to the forme prescribed by the statute, or otherwise it will be void.

37. H. 6. f. 1.

And therefore in 37. H. 6. the Sherife tooke a single obligation of one that was in his custody (who was baileable) and it was holden to be void, for that the obligation wanted the essentiall forme prescribed by the statute, for the condition therein prescribed sc. for the apparance of the prisoner. *Sanz condic.*

Bailement.

soner) was wanting, which is part of the substance, Co. 10.
100. Pl. 67.

*De unq̃ue nō
baileable.*

So in the same booke Moyle saith, that if the sherife had bailed one who is excepted in the said statute, and not baileable, and had taken a single obligation, that it was void, which the rest of the Justices also granted; for by the exception it appeareth that it was not the intent of the statute, that he should be bailed, and so the obligation is taken in other forme than the statute meant.

37. H. 6. fo. 1
Pl. 64. 67.

*De sauer
harmelleſſe.*

And by the opinion of sir Edw. Coke, that as well in the former case of 37. H. 6. as in the principall case of Diuc and Maningham, Pl. 67. the obligation which was with condition to saue the sherife harmelleſſe (when the sherife against the law had bailed one which was not baileable) is against the law, and void by the common law; wherewith agreeth Wilehams case, 15. El. Dyer 324.

Co. 10. 100.
b.
Pl. 69.

Addition.

Also if the sherife shall adde to the condition of the obligation that he shall be saued harmelleſſe against the king, and the plaintife &c. this shall make all the condition void.

Co. 10. 100.
b.

*Deſte voier
prisoner.*

So if the sherife or gaoler shall take an obligation of the prisoner, with condition to be his true prisoner, or to pay for his meat, or his drinke, these are void. Plowden 68. See hic Gaoler.

So if the sherife shall adde any other thing to the matter prescribed by the statute, as to pay so much money for a horse &c. such addition maketh all the obligation to be void, for that it is taken in other forme (touching the substance of the matter) than is prescribed by the statute; and with all this agreeth master Pl. 60. 67. 68. 69.

Co. 10. 100.
b.

*A verball
promise.*

And if a sherife or gaoler (for the ease and enlargement of any person who is in their custodie, or ward) shall take a promise to saue him harmelleſſe, although the statute speaketh onely of obligations with conditions, yet this is in the like mischief; and therefore promises shall bee taken within this statute of 23. H. 6. and within the equitie of the words (any obligation) an assumpsit shall be taken; for Quando verba statuti sunt specialia, ratio autē generalis, generaliter statutum est intelligendum.

Co. 10. 100.
b.

By Mountague chiefe Justice, if more bee inserted into the obligation than for apparance of the partie bound, all the bond is void.

Pl. 68.

And yet 21. Eliz. Dyer 364. there the condition was in the coplative, to appeare and answer, and the obligation holden good.

Co. 10. 101.
b.
Dyer 364

The

The case there was this, a sheriffe having an attachment returnable coram domina regina & concilio suo, in camera stellata apud Westmonasterium in quindena Pasche, ad respondenda & recipiend' ulterius &c. doth arrest the party, and takes bond of him (for his apparance) indorced with this condition, scz. that if he shall personally appeare before the queens maiestie and her counsell at Westminister, in quinden Pasche, and then and there shal answere a contempt by him against the queene and her counsell committed, that then &c. And the question was, whether this bond and condition were good in law or no, because the words (and then and there shal answere &c.) were added to the condition, and so was more than the statute of 23. H. 6. would warrant; And by the opinion of Dyer and Wyndham the obligation was good enough, for it was as much as to have said, then and there to answere (to a contempt &c.) which had bene good: And by this obligation no profit did accrue or grow to the sheriffe, nor to any other person, but was only to answere the queene &c. which was the intent of the statute of 23. H. 6. yet Meade was of the contrarie opinion: But after iudgment was given for the plaintiffe, and so the obligation holden and adjudged to be good, according to the statute of 23. H. 6.

27. Eliz.

Also in the Kings Bench anno 27. Eli. the case was this, Mr William Drurie late sherif of the county of Suff. brought an Action of Debt upon an obligation of thientie pound, against A. B. who demanded oyer of the obligation (whereby it appeared that the defendant was duly bound therein) and of the condition which was that one More, whom the said sheriffe had arrested by force of a Latinar out of the Kings Bench, should appeare in person at the day contained in the writ) ad respond' &c. and pleaded the stat. of 23. H. 6. and that the said obligation was taken in other forme than the said statute prescribed &c. whereupon the plaintiffe demurred in law: And it was objected that there were three variances from the forme prescribed by the statute, scz. one in the obligation, and two in the condition: In the obligation, for that the plaintiffe took but one suretie, whereas the statute prescribeth reasonable sureties of sufficient persons, in the plural number, having sufficient both in the countie &c. in which case there ought to be thod sureties at the least, and here was but one suretie, and so against the words of the said statute, and also against the intent of the statute, for the

ONE

B b 2

more,

Bailement.

more, and the more able that the sureties are, they will the sooner cause the partie that is bailed to appeare, and thereby justice shall proceed with more expedition: And also in the condition, first the words are, that the prisoner shall appeare in person; whereas the words of the statute are to appeare generally, without these words in person; secondly that he should appeare at the day &c. ad respond, where those words (ad respondend) are more than the statute prescribes, and so for these two causes the condition varied from the forme prescribed by the statute, and therefore the obligation was void: But it was resolved by sir Christopher Wray, sir Thomas Gawdie, and all the court of the Kings Bench, that the said obligation was not void; for as to the first objection, the words upon reasonable suretie of sufficient persons, are added for the suretie of the sherife, and therefore if he will take but one suretie, it is at his perill, for he shall be amerced if the defendant appeareth not; and therefore the statute doth not make void the obligation in such case, for the branch of the statute which prescribeth the forme of the obligation, requireth that the obligation shall be made to the sherife himselfe by the name of his office, and that the prisoners appeare, in which clause no mention is made of the sureties, so that the meaning of the statute was, that in as much as this was at the perill of the sherife, to leaue this to his discretion, scz. to take one, or moe sureties for his indemnitie; and peradventure it shall be better for him sometimes to take one which is sufficient, than two others; And although the sureties or suretie haue not sufficient within the same countie, as the statute mentioneth, yet the obligation is good enough, for these words of the statute to this point, are rather for counsell and direction of the sherife, than by way of precept or constraint to him, and that for the safetie of the Sherife: But note that if the defendant cannot find two sufficient sureties, having sufficient within the same countie, the Sherife is not bound to let him to baile.

And as concerning the two additions to the condition of the said obligation, more than is in the statute, it was resolved, that there is a verball difference in the forme prescribed by the statute, but no difference in substance & effect, for he that is so bailed ought to appeare in person; And so, and for the same cause, the other exception was not materiall, for he which was to appeare, ought to appeare ad respondend; & parum differunt, quæ re concordant.

*But one sure-
tie.*

*Nient suffi-
cients countie.*

Co. 10.
100. a

Ibid.

Fitz. 25. a

And

And so note that sherifes, nor their officers, ought to take no obligation for any cause or thing aforesaid, or by colour of their office, except onely to themselves; nor of any person being in their custodie or ward, but by the name of their office, naming himselfe sherife in the obligation, & upon condition only that the partie shall appeare at the day & place in the writ or warrant specified; and if any obligation be taken by colour of their office, in any other forme, it is void by the statute of 23.H.6. But for the sureties, their number, their sufficiency, and the summe wherein they shall be bound, all these rest in the discretion of the sherife, and his officers, but yet at the perill of the Sherife, if the defendant shall not appeare thereupon.

Coment obligation prise in auter manner que le statute (de 23.H. 6.) prescribe soit void, vncore le partie ne poit plede non est factum, mes avoider ceo per plee &c. 7.E.4.fo.5. Co.3.59.& 5.119. *Regula*

Ceo statute de 23.H.6.cap.10.est forsque particulier & speciall aef, dont les Iudges, ou Court, nest tenu de prendre notice, ex officio, sinon que soit plead per le partie. Dyer 119. Co.4.76.

Pla.68.a.

Nota que le vicount & ses officers, ne poient prendre obligation de leur prisoner, forsque in petit number de Cases, car leur abusie in ceo point est streit per ceo statute de 23.H.6.

Et isint semble de obligations prise per le vicount de ses officers, ou de ascun auter persons, colore officij, si isint soit que le obligation est prise in auter forme que le statute limit.

Bb 3

Obliga

Obligations.

Obligations.

The forme of a Bond for appearance.



Overint vniverſi per præſentes nos *A. B.* de *C.* in com̃ Canteb̃r geñ, *E. F.* de *L.* in comit' præd' yeoman, & *H. T.* de *R.* in com̃ prædict' yeoman, teneri & firmiter obligari *A. B.* milit' vic' corā præd. in quadraginta libris bonę & legalis monetę Anglię, ſolvend' eidem vicecomiti aut ſuo certo attornato, execut', ſive adminiſtratoꝝ ſuis, Ad quam quidem ſolutionem bene & fideliter faciend', obligamus nos & quemlibet noſtrum per ſe pro toto & in ſolido, hæred', executoꝝ, & adminiſtratoꝝ noſtros, & cujuſlibet noſtrum, firmiter per præſentes, ſigillis noſtris ſigillar', dat' quarto die Decembris, anno regni domini noſtri *Jacobi Dei* i gratia regis Angl' &c. decimo nono, & Scotiæ quinquageſimo quinto annoque Domini 1621.

The Condition for apparance.

The condition of this preſent obligation is ſuch, That if the aboue bounden *A. B.* do appeare coram domino rege (if the wꝛit be out of the Kings Bench) apud Weſtmonaſt. die Iovis proxim' poſt quindena ſancti Hillaꝝ, or otherwiſe according to the returne of the wꝛit, but if the wꝛit be returnable in the court of Common Pleas, then the words in the condition muſt be foꝝ the defendant to appeare coram Iuſtic' domini regis (apud Weſtmonaſt. in oſt. ſancti Hillaꝝ, or ſuch other returne according to the wꝛit) to anſwere to *C. D.* in a plea of Treſpaſſe (or debt, as it is in the wꝛit) that then this preſent obligation to be void and of none effect, or elſe the ſame to ſtand, remaine, & continue in foꝝce, ſtrength, and vertue.

Sealed and deliuered to the uſe of the abouenamed Sherife, in the preſence of *A. R.* and *T. S.* (two witneſſes at the leaſt.)

Or thus in Latin.

Conditio istius obligationis talis est, Quod si interius obligatus I.H. Compareat personaliter coram dño Rege : **O**z coram Iustic' dñi Regis : apud Westm (à die pasche in xv. dies) ad respondendum A.B. de placito debiti (vel detenc', aut compoti, juxta tenorem brevis dñi Regis præfat' vic' inde direct'). Quod tunc præfens obligatio vacua & pro nulla habeatur, Alioquin in suo robore permanere & effectu.

Upon a Warrant made oz granted out vpon a Capias vtlagatum, the Sherifes in some places doe vse to take of their Bailifes, a Bond with Condition, to bring the defendant to prison if he be arrested; which makes good execution of those Proces. And it were to be wished, that this were vled in all Countreys, and then there would not be so much extortion and indirect dealing vled by vndersherifes and bailifes to the king and his subjects as there is: for if they take any man vpon a Capias vtlagatum, they will not onely take money of the plaintiffe, for to take the defendant, but when they haue taken him, for money they will let him goe againe; and they will alledge for a colour, that it is to reverse the Outlawry, which they haue nothing to doe withall; for the defendant ought to be brought to prison, and there to remaine vntill he hath reuerfed the Outlawry by the helpe of some Atturue, and not by the sherifes, vndersherifes, oz other officers; For no vnderherife, oz sherifes bailife &c. ought for their times to practise as an Atturney. Wilk. See hic postea titulo Sherifes officers.

Also vpon all Replevins granted oz made by the sherife, oz his officers, they must take a Bond of him to whom the Replevin is granted, for his appearance, and prosecuting of the suite &c. whereof see postea titulo County Courr.

Also there is another Bond which the sherife oz his officers must take for the deliuerie of the goods oz cattell replevied, if returne shall be adjudged &c. The forme of which condition is as followeth.

Conditio istius Obligationis est talis, Quod si supra Obligati A.B. & C.D. redeliberaverint supra nominato vicecomiti : omnia illa bona & catalla, & quamlibet inde parcellam per P. H. capt' & ratione cuiusdam Repleg' per prædictum vicecomitem factum, præfatis A. B. & C. D. Repleg', si returna inde

Vpon Replevin.

De prosecuter le suite.

De Return les biens, &c.

ad-

Obligations.

adjudicetur ; Et præd' vic' et executor suos indemnem conservauerint, Quod tunc hæc præsens obligatio vacua et pronulla habeatur, Alioquin hæc præsens Obligatio in omni suo robore permanere et effectu.

Or thus in English

Aliter.

The condition &c. That whereas the within named Sherife by vertue of his office, & upon the complaint of the within bounden I. S. hath deliuered and Repleuied to the same I. two horses and five kine which one W. T. late tooke and wrongfully withholdeth as the said I. S. saith: If the said I. doe pursue his action with effect against the said W. for the taking and withholding of the said horses and kine and doe make returne of the same, if the returne thereof shall be so adiudged by law ; And the said Sherife his heires executors and administrators shall acquite discharge and saue harmlesse against our soueraigne Lord the King, and the said W. of and for all and euerie thing concerning the premises, That then &c.

A condition to be true prisoner.

The condition &c. That if I. H. Merchant of &c. which now is in the Kings prison vnder the keeping of the Sherife within named, as well by reason of a writ of our soueraigne lord the King of the statute of the staple concerning the summe of one hundred pounds &c. As also for certaine other actions, causes, and suits on the behalfe of R. S. &c. moued and commenced, bee from henceforth a true & faithful prisoner, tarrying and remaining with the said Sherife and his deputie, till the same R. S. be fully at an end discharged and acquitted of the said action, and then content and pay to the said Sherife &c. All and singular costs, charges, fees, and other dueties, in such cases therefore accustomed to be payed That then &c.

A con-

A Condition for appearance in the Kings Bench, for the Peace.

Conditio &c. quod si infra Obligatus I.L. compareat personaliter, in custod infranominat' vicecom' &c. coram domino Rege (in octabis sanct' Michaelis proxim' futur') ubicunque tunc fuerit in Anglia, ad inveniend' tunc coram ipso domino Rege sufficientem securitatem pacis dñi Regis, & de se bene gerendo erga ipsum dominum Regem & cunctum populum suum, & præcipue erga H. C. juxta tenorē brevis ipsius domini Regis præfat' vicecom' inde direct', Et medio tempore pacē gerat, & dict' vicec' hæred' & executor' suos erga dominū Regem & cunctum populum suum, præcipue erga prædict' H.C. de & in omnibus concernent' præmissa indemnes conservet quod tunc, &c.

A Condition for appearance in the Kings Bench, and good abearing.

Conditio istius Obligationis talis est quod si interius Obligatus I.L. compareat personaliter sub custodia infranominati vicecom' vel ejus deputat' coram domino Rege in Octabis sanct' Hillar' proxim' futur' ubicunque tunc fuerit in Anglia, ad inveniendum tunc coram ipso domino Rege sufficientem securitatem de se bene gerendo erga ipsum dominum Regem & cunctum populum suum, juxta tenorem brevis dicti domini Regis præfat' vicecom' inde direct', & se bene medio tempore gerat, & dict' vicecom' & executor' suos erga dominum Regem & cunctum populum suum, de & in omnibus concernent' præmissa indemnem conservet, quod tunc &c.

Also it is safe for the sherife to take good securitie of his officers scz, from his under sherife, bailifes and Soaler, &c. *De ses officers.*
And this securitie is commonly by bonds, the formes whereof, See hic postea titulo, Sherifes Officers.

But these bonds are thought by some opinions to be void, or voidable, by the words of the statute of 23. H. 6. cap. 10. That no sherife shall take any Obligation for any cause aforesaid, or by colour of his office, but onely in such forme and sort as is prescribed by the same statute, And if any sherife take any Obligation in other forme, by colour of their office, it shall be void.

Also

Obligations.

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Or thus in English

Aliter.

The condition &c. That whereas the within named Sherife by vertue of his office, & upon the complaint of the within bounden I. S. hath deliuered and Repleued to the same I. two horses and five kine which one W. T. late tooke and wrongfully withholdeth as the said I. S. saith: If the said I. doe pursue his action with effect against the said W. for the taking and withholding of the said horses and kine and doe make returne of the same, if the returne thereof shall be so adiudged by law; And the said Sherife his heires executors and administrators shall acquite discharge and saue harmelesse against our soueraigne Lord the King, and the said W. of and for all and euerie thing concerning the premises, That then &c.

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*A Condition for appearance in the Kings
Bench, for the Peace.*

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Also it is safe for the sherife to take good securitie of his officers scz, from his under sherife, bailifes and Goaler, &c. *De ses offici-
cers.*
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Also

Attendancie vpon Iudges.

*Sur Idempt.
Nominis.*

Also by the statute made 37. E. 3. cap. 2. where the sherife shall seise any lands or goods, &c. of one mans, which beareth the same name with another that is vllayed, the partie griued may haue a writ de Idemptitate Nominis, directed to the Sherife (or other officer :) but the partie griued must withall find surety before the Sherife (or other officer) to answer the King the value, &c. in case he cannot discharge himselfe.

*Sur Idempt.
Nominis.*

**The Sherife is to be Attendant vpon the
Iudges in their Circuit.**

Vpon a precept from the Iudges of Assise, the sherife is to summon the Assises, and to returne the same, &c. which see hic ante fol.

Also the high sherifes themselves are in person to attend vpon the Iustices or Iudges of Assise and Gaole deliuerie in their circuits, and shall giue their attendance for the due executing of the commaundements & precepts of the said Iudges in matters concerning the execution of their offices and administration of Justice; and to take the charge of prisoners; and for the execution of felons and other persons condemned; And for the inflicting of punishment vpon other prisoners according to Justice; and so far forth as appertaineth vnto their office of a sherife.

Euery sherife (& all other persons) which haue the custodie of the gaoles (or of prisoners for felonie,) ought to certifie the names of euery of their prisoners which are in their custodie for felonie, to the Iustices of the next generall Gaole deliuerie, in a Calender, vpon paine of s. ii. for euery default.

The forme of such Calender may amongst other things be as here shal followeth; or else they may make a Calender of the prisoners alone.

Canabr.

Kalendarium de nominibus Iustic' Pacis Domini Regis, Coronator' Seneschall' Balliui' libertar' et hundred', in com-
pra-

Assistance to Iustices of Peace.

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* See hic
titulo
Goales

prædict. Sommon ad Assisas tenet' apud C. in Com prædict. die
Lunæ in secunda septimana Quadragesimæ, Anno regni domini
nostri 14. dei grac' &c. fidei defensoris &c. Ac de * nominibus
prison' in Gaola prædict. existenti.

Nomina Iustic' Pacis.

A.B. miles & Baronettus. C.D. miles. E.F. Ar. &c.

Nomina Coronatorum.

G.H. I. K. &c.

Nomina Senesch. & Ballivor' Libert'.

L.M.N.O.P.Q. &c.

Nomina ballivor' Hundred'.

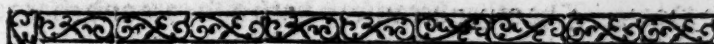
R.S.T.V. A.C. B.D. &c.

Nomina Prison' in Gaola C. existent'.

I. S. repris.

I. N. capt' apud S. pro suspect' feloniz.

Et sic de reliquis &c.



The Sherife also is to assise the Iustices

of Peace in his Countie, in divers cases.



In some Cases the Sherife is to ioyne with the Riots.
Iust. of Peace, as in case of riots, See hic antea.

If the Sherife, or vnder Sherife, shall not goe
and ioyne with the Iustices of peace for the due
execution of the Stat. of 13. H. 4. c. 7. made for the
suppressing of riots, routs, and vnlawfull assemblies. Scz. for
the arresting, and imprisoning of such offenders, and recor-
ding their offence, and enquiry thereof, according to the
same statute, they shall forfeit one hundred pound.

13. H. 4. c. 7.
15. R. 2. c. 2.

And the Sherife is to comey such offenders to the Goale,
at the appointment of the Iustices of Peace.

If the truth of the riot cannot be found out vpon the In-
quiry, then within one moneth after the Inquiry, the Sher-
ife, or vnder Sherife shall ioyne with the Iustices of Peace in
a Certificat of the fact and circumstances &c. vpon paine of
one hundred pound. See hic antea fol.

Also if the said riot be not found by reason of any embra-
cery, or maintenance &c. Then the Sherife, or vnder Sherife
(ouer and besides their former Certificat) shall ioyne in ano-
ther Certificat, of the names of such maintainers, and im-
bracers, with their misdemeanors, vpon paine of twentie
pound. See hic antea fol. In

Assistance to Iustices of Peace.

In some cases the Sherife is to attend the Iustices of Peace.

If the Sherife (or any other person of the County) doe not attend vpon the Iustice or Iustices of Peace, to goe and assist him or them, to arrest such as shall make any forcible entries (into any houses, lands, or other possessions) he or they so offending, shall be imprisoned, and pay a fine to the King.

Forcible entry.

13. H. 4. c. 7.
P. force, 5.

The Sherife, or vnder Sherife, ought also to attend the Iustices of Peace at their generall Sessions of the Peace, and that for the double duetie that he beareth, The one as Sherife to returne the precept, and to take the charge of prisoners, and to serue the Court otherwise as he hath in charge by the Mandamus that is mentioned in the Commission of the Peace; The other because he hath also care and charge of the Peace. Lambert. 381.

In other cases the Sherife is to execute the Proces, Precepts, Warrants, and other lawfull commandments of the Iustices of Peace. And therefore vpon a precept from any two Iustices of the P. (the one being of the Quorum) the Sherife is to summon the Sessions of the Peace, and to returne the same. See hic fol.

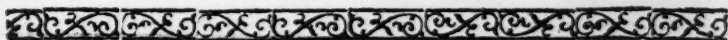
All Sherifes, and bailifes of liberties, must truly execute all such proces as shall come to him or them from the Iustices of Peace, before whom any presentment shall be made touching decayed Bridges, or any parte of Bridges, vpon paine to make such fine, as shall be assessed vpon him or them by the said Iustices.

22. H. 8. c. 5.
P. Bridges 8

If the Iustices of Peace shall grant out any proces against any seruants, or labourers, departing into other shires, the Sherife must duly execute such proces vpon paine of twentie pound. Stat. 2. H. 5. cap. 4.

Also the Iustices of Peace (as well out of their Sessions, as from their lessions of the Peace) may in many cases direct their Precepts, or Warrants, and other Proces to the Sherife, vnder Sherife, bailife or other like officer, And the Sherife and other his officers are to execute the same, accordingly, See my Countrey Iustice pag. 303. 305. & 367.

The



The Sherife is to execute the Precepts
of Commissioners of Sewers.

23. H. 8. c. 5.

The Commissioners of Sewers haue authoritie to make and direct writs, Precepts, Warrants, and other commandements, to all Sherifes, Baylifes, and all other ministers and officers, as well within liberties as without, befoze the said Commissioners or fixe of them, at certaine daies, times, and places to bee returned, &c.

Ibid.

Sherifes shall returne and cause to come befoze the said Commissioners (at such dayes and places as they shall appoint) such and so many Jurors scz. honest and lawfull men of their bailwicke or shire, as well within liberties as without) as shall be expedient for inquirie.

Ibid.

All other Ministers and Officers, as well within liberties as without, shall be attendant vnto the commissioners of Sewers in and about the due execution of their commission.

Ibid.

If any Sherife or other officer, shall be negligent in the due execution of the premises, the said commissioners may (as it seemeth) punish them by distresse, fines, and amercements, or otherwise, as to the said commissioners (or fixe of them) shall seeme expedient, &c.

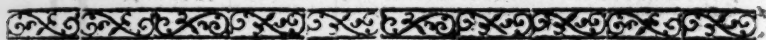
7. Ia. c. 10.

Also by the statute made 7. Iacobi Regis, All Sherifes (baylifes, officers, and other the Kings ministers whatsoever) within the Counties of Norfolk and Suffolke (as well within liberties as without) shall from time to time be attendant, ayding and assisting to the commissioners of the Sewers, and to euerie fixe or moe of them, for and concerning the returning of the Juries befoze the said commissioners; as also for and concerning all such other things as shall concerne their severall offices & places respectively, in or about the execution of all things in the said Act contained; vpon paine to forfeit such paines, penalties, fines, and summes of money as shall bee set or imposed vpon them, by any fixe or moe of the said commissioners, &c. which said penalties, &c. shall and may bee leyed, by distresse, sale of goods, and imprisonment, &c. and shall bee employed and disposed of, in and about the preservation of the fenne grounds and drayning of the waters there.

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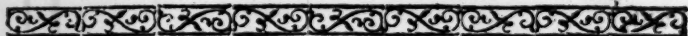
Precepts of Com'. Of Escheators.



The Sherife also is to execute the
Precepts of other Commissioners.

Bankrupts.

As the Commissioners vpon the statute of Bankrupts (made 13. Eliz. cap. 7.) may cause the lands, tenements, annuities, offices, and goods, &c. of Bankrupts, to be viewed, rented, and appraised vnto the best value they may, and then to make sale thereof, &c. And for the appraising of such lands, &c. the said Commissioners (as it seemeth) may make and direct their Precept or warrant to the Sherife, for the returning of a Iurie before them, for appraising and valuing thereof: And such Commissioners may (as it seemeth) set a fine vpon the Sherife for not returning such a Iurie before them.



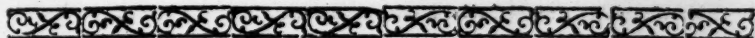
The Sherife in some things is to execute
the Precepts of Escheators.

Note that Escheators by the Common Law may make and direct their Precepts or warrants to the Sherife, for the returning of Iuries before them; And may also assesse and set a fine vpon the Sherife, for not returning of a pannell of Iurie before them, &c. 7. H. 6. 12. Br. Fines, pur Contempts 18. And this Escheators might haue done by the Common Law.

And yet for that Escheators for their priuate gaine vsed to take enquests (to enquire before them, as well by vertue of the Kings writs, as by force of their offices) fauourably and not duely, by people not impannelled nor returned to them by the Sherifes of the Counties, to the grieuance of the Kings subiects, &c. Therefore by a statute made, 8. H. 6. c. 16. it was ordained that no Escheator or Commissioner shall take any enquest but of such persons or people as be returned and impannelled by the Sherife, in the Countie within which he is Escheator or Commissioner.

34.H.8.c.
26.

By the Statute 34. H. 8. every of the Sherifes within the Counties of Wales, shall have power within their Sherifewickes, as Sherifes in England, And shall accomplish and execute all the lawfull commandements and precepts of the Justices &c. and of Escheatores in all things appertaining to their offices and authorities.



The Sherife in some Cases is to execute the Precepts of Coroners, &c.

Note also that Coroners by the common lawe may make and direct their Precepts or Warrants to the Sherife, for returning of Juries before them; And may also Assesse and set a fine vpon the Sherife for not returning of a Pannell or Jury before them &c. 7. H. 6. 12. Br. fines pur contemptis. 18.

34.H.8.c.
26.

By the statute made Anno 34. H. 8. it was ordained that every of the Sherifes within the Counties of Wales; shall have full power within their Sherifewickes, to doe as Sherifes in England; And shall accomplish and execute all the lawfull commandements and precepts of the Justices &c. and of Coroners, in all things appertaining to their offices and authorities.

3.E.1.c.10.

By the statute made An. 3. E. 1. Sherifes shall have Counter Rolls with the Coroners, as well of Appeales, as of Enquests, of Attachments, and of other things which to that office belong.

And to this purpose Master Bracton lib. 2. de exceptionibus ad Appella, saith thus, Est aliquando dissentio in recordo faciendo, inter Coronatores & vic', cum vterq; debeat habere suū Rotulū, in quibus quandoq; varia continen', quandoq; Concordant'. Et habent Record' quandoq; Coronat' per se sine vic', vt si vic' mortuus fuerit, vel amotus, & rotulū non inueniant'. Si vero Rotulus vic' discord' à Rotulis Coronat', & rotuli Coroni conveniunt, tunc eorū stabit recordo, quia Rotulus vice' nihil operat' nisi ad testifiū. Et quid si rotulus vnius Coroni discord' à rotulis aliorū, cum plur' fuer' standū est plurā. Si autē non sunt nisi duo Coroni, & discord', tunc stabit rotulis ipsius cū quo concordat rotulus vic'. Si autem sunt ibi quatuor Coronat' & duo dissent' à duob', nec appareat vic' qui Rotulū habet ad testific', tunc stabitur illis duob' qui cum Appel' conveni, &c. Stamf. 83.

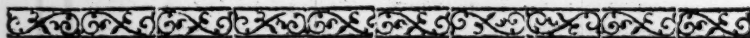
Et 2

But

Assistance to the Ordinarie.

But no Sherife, Coroner, or any other Bailife of the Kings shall hold pless of the Crowne: scz. they shall not hold pless of any felonie, nor of any lands, debt, or trespasses &c. And yet the Sherife, or coroner may enquire of the death of a man, and of other things belonging to their offices. See hic antea fol.

Mag^r Chart^r
cap. 17.



The Sherife in some Cases is to Assist the Ordinarie.

The Sherife, by his oath, is bound to doe all his power and diligence to destroy and make to cease all heresies within his bailwicke or County.

Also the Sherife (being required) is to aide and assist the Ordinarie, and Comissary, for the suppressing of heresies within his County.

Note that this part of the oath which the Sherife taketh, for the suppressing of heresies, seemeth to be by force of the statute. 2. H. 5. c. 7.

How far the Sherife was in former times, to aid the Ordinarie for the suppressing of heresies, and punishing of hereticks, See Fitz. 269. d. & Br. titulo Heresies.

But now the stat. made against Lollards or Heretickes (as they were termed) sc. the stat. 5. R. 2. c. 5. 2. H. 4. c. 15. 2. H. 5. c. 7. & 25. H. 8. c. 14. &c. stand all repealed by the stat. made 1. E. 6. c. 12. And therfore at this day, it seemeth, that a man must be convicted of heresie, by the Archbishop, and all the Clergy of that Province, and must abjure thereof, and afterwards must fall into a relapse, and be newly convicted, and condemned by the Clergy of that Province, in their general Councell of Conuocation. And that yet after such conviction & condemnation, the ordinarie ought not to deliuer him to the Lay power, or Sherife, to be burned, without the Kings writ first purchased and had therfore: whereas before (by the statute 2. H. 4. c. 15.) every Bishop within his Diocese, might haue convicted abjured, & condemned a man of heresie; And vpon the Bishops warrant, the Sherife ought to haue burned him, and that without the Kings writ.

Fitz. 269. d.
Br. heresie.

And quere what the Sherife at this day may doe, for the destroying, or suppressing of heresies, moze than to execute the Kings writ, for the burning of such as shall be convicted and condemned, as aforesaid.

The

The Sherife is to proclaime certaine
Statutes, &c.

11.E.1.c.1.
28.E.1.c.17.



Euerie Sherife of England ought in person foure times in euerie peare, to proclaime the statute of Winchester (made 13.E. 1. against Homicides, burning of houses, robberies, and other felonies) within euerie hundred of his bailiwicke; and in all Faircs and Markets by his bailifes (as well within liberties as without:) And this is parcell of his oath, and is by force of the statute made anno 7.R.2.cap.6. *Statute of Winch.*

1.H.6.c.1.
20.H.6.c.8.

Also euerie Sherife ought to proclaime all the statutes and ordinaunces made of Purueyors (not repealed) foure times in his peare, thzough his Bayliwicke, vpon paine of v. li. But it seemeth the Sherife is first to receiue the said statutes, together with the Kings commandement for doing the same, and then hee ought to proclaime them accozdingly; and he ought then also to deliuer the same to his successor by Indenture, for him to proclaime the same vpon the like paine. *Statutes of Purueyors.*

33.H.8.c.9.

Sherifes shall make Proclamation foure times in the peare, scz. euerie quarter once, in euerie Market to be holden within their counties, of the statute prouided against vnlawfull games, and for maintenance of Archerie. *Unlawfull games.*

5.Eliz.ca.4.
39.Eliz.c.11.
11a.c.6. et
29.

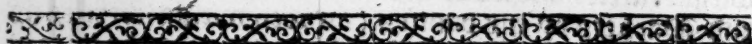
The Sherife vpon receit of any Proclamation printed, and sent downe by the Lord Chancellor, &c. or vpon receit of any rates of wages made by the Iustices of Peace of that Countie, and ingrossed in parchment vnder their hands and seales for the rates of wages of seruants and labourers &c. shall forthwith cause Proclamation to be made of the seuerall rates so made, in euerie market towne within his limits (or at least in so many places within their authorities as shall be conuenient;) The same Proclamation to be done in open market, and to be fixed in some conuenient place of the towne. *Rates for wages.*

34.E.3.c.11.
37.E.3.c.19

If any person findeth a Hawke that is lost, he must presently bring the same to the Sherife of that countie (where it is taken vp,) and the Sherife must make Proclamation, in all the good townes in the countie, that hee hath such a Hawke in his custodie; and if the Lord and owner which lost the same Hawke, or any of his seruants come to chal-

Proclamations.

lenge it, and proueth reasonably that the same is his Lords
or Masters, he is to pay for the costs, & to haue the Hawke
again; and if none come within foure moneths to challenge
the Hawke, then the Sherife shall haue the Hawke making
gree to or with him that did take by the Hawke, if hee bee a
simple man; and if he be a gentleman, and of estate to haue
the Hawke then the Sherife is to redeliver him the Hawke,
taking of him reasonable costs for the time that he had him
in his custodie: scz. reasonable allowance for the keeping
thereof.



Proclamations to be made by the Sherife.

*Summons in
Reall actions.*



Of auoiding of secret summonns in reall actions, 31. El. ca. 3.
after summonns vpon the land, and fourteen daies
at the least, before the day of the returne thereof,
the Sherife shall make a proclamation of the sum-

Returned.

mons vpon a Sunday, immediately after Diuine Seruice
and Sermon, if any sermon there be, and if no sermon there
be, then forthwith after Diuine Seruice, at or neere to the
most small doore of the Church or Chappell of that towne
or parish where the land whereupon the summonns was
made, both lye; And that proclamation so made, as afore-
said, shall be returned together with the names of the sum-
moners; And if such summonns shall not be proclaimed, and
returned, according to the tenor and meaning of this Act,
then no *Grand Cape* to bee awarded, but an alias and pluries
summons, as the case shall require, untill a summonns and
proclamation shall be duely made, and returned, according
to the tenor and meaning of this Act: 31. Eliz. 3.

Vpon Vilarie.

Also for the auoiding of secret outlarie, &c. vpon euerye 6. H. 8. cap. 4
Exigent where writs of Proclamation are to be awarded,
the Sherife of the Countie to whom any such writ of Pro-
clamation shall bee directed, before any vilarie pronoun-
ced, shall make three Proclamations within his Countie,
at three severall dayes, (two of his Proclamations to bee
made in full Court of his countie or shire Court; And the
third Proclamation to be made at the generall Sessions in
those parts where the partie defendant is supposed to bee
dwelling, &c.) that the partie yeeld his bodie to the Sherife of
the countie to whom such *Exigent* is awarded, so that the
Sherife

31. El. c. 7.
P. Exig' 13.

Sherife may haue the bodie at the day of the returne of the Exigent to answer the plaintife: But now by the statute of 31. El. one proclamation is to be made in the open countie Court, another at the generall quarter Sessions of the peace, and the third at or neare the most vsual church doore of that towne or parish where the defendant shall be dwelling at the time of the Exigent awarded, and vpon a Sunday, immediately after diuine seruice, and the same (third proclamation) to be made one moneth at the least before the quint exact, by vertue of the said writ of Exigent; and that all Writars had and pronounced, and no writ of proclamation awarded, or not returned according to this statute, shall be utterly void.

1. In le countie.
2. At sessions
3. At ostium Ecclesie.

1. E. 6. c. 10.
5. E. 6. c. 16.
P. Exig' 6.

Also whensoever any writ of Exigent shall be awarded (in any action or suit in the Kings Bench, or Common Pleas) against any person dwelling in Wales, or in Lancashire, or Cheshire, one writ of proclamation shall be also awarded &c. and euery sherife (of euery of the said counties) to whom any such writ of Proclamation shall bee directed, shall make proclamation of the said writ of Proclamation, according to the tenor of the same, and shall make true returne of the same, according as the same writ shall require.

Wales &c.

13. El. c. 9.

Also by another statute made an 31. El. writs vpon Proclamations, and Exigents, against any person dwelling within the countie Palatine of Durham, shall be directed to the Bishop (or Chancellor) of Durham &c. And the said Bishop &c. shall by his Mandate, directed to the sherife of the said countie Palatine, cause proclamation to be made of the same writs of Proclamation, according to the tenor of the same; and shall make true returnes of the same, in such courts as the tenor of the same writs of Proclamation shall require.

All Writars pronounced against any person vpon any such Exigent awarded against any person dwelling within any the said counties of Wales, Lancashire, and Cheshire, as also within the said Bishopricke or countie Palatine of Durham, and no writs of Proclamation awarded in form aforesaid, or not returned as aforesaid, shall be clerely void, and of none effect. P. Exigent. 6. & 17.

Also if the sherife shall not duely execute and make true returne of such writs of Proclamation &c. he shall be amerced at the discretion of the Iustices. 6. H. 8. c. 4. P. Exigent 5.

And the sherifes of euery of the said counties of Wales, Lancashire, and Cheshire, as also the Bishop or Chancellor of

Proclamations.

of Durham &c. which shall not make true returne of euerie such writ of Proclamation to them directed &c. they shall loose for euerie such default b. l. the one halfe to the king the other halfe to any person which will sue for the same, 1. E. 6. c. 10. 5. E. 6. c. 26. 31. El. c. 9. P. Exig. 8. & 17.

Auerment.

If the Sherife shall not make all these proclamations in case of Utlarie, according to the statutes &c. yet by the common law the party being outlawed should not haue auerred this against the sherifes returne, (scz. to say that there was but one, or two proclamations made by the Sherife &c. or to say that the sherife made no proclamation at the church doore, or sessions &c.) but in such cases the party so vnduely outlawed should haue had his Action of the Case against the Sherife, and so recovered his dammages &c. See the opinion of Keble 10. Hen. 7. fol. 23. & Br. Action sur le Case 122.

10 H. 7. f. 23

Upon utlarie

Yet by the words of the statute of 6. H. 8. cap. 4. All Ut-laries had contrarie to the same statute shall bee auoided by auerment without suing of any writ of Error.

6. H. 8. c. 4.

But now by the statute 31. Eliz. cap. 3. (in fine before any allowance of any writ of Error, or reuerling of any Ut-larie, shall be had by plea or otherwise, through, or by want of any proclamation to bee had or made, according to the forme of this statute, the defendant and defendants in the originall action shall put in baile, not onely to appeare and answere to the plaintife in the former suit in a new action to be commenced by the said plaintife for the cause mentioned in the first action, but also to satisfie the condemnation, if the plaintife shall begin his suit before the end of two termes, next after the allowing the writ of Error, or otherwise auoiding of the said Utlarie.

31. El. c. 3.

*Of the parli-
ament.*

Sherifes (at their next countie holden after the deliuerie of the kings writ) shall make proclamation in their countie Court, of the day and place of the parliament &c. so that all interested may attend to the election of the knights of the parliament &c. See hic antea fol.

7. H. 4. c. 15.

Sherifes when they haue receiued the kings writ for the leuying of expences of the knights of the parliament, at the next Countie Court, they ought to make proclama-tion, that all parties interested be at their next Countie, to asseste the said wages &c. See hic antea tit. Knights of the par-liament.

23. H. 6. c. 11

*Admeasure-
ment de
Dower.*

In the writ of Admeasurement of Dower, as also in the writ of Admeasurement of Pasture, when the suit is come to

to

to the grand distresse, daies shall be giuen, within the which there may be holden two Counties, at the which open proclamation shall be made, that the defendant shall appeare at the day contained in the writ, to answer the plaintife, at which day, if he do appeare, the suit shall proceed betwixt them, and if he do not appeare, and the proclamation be in forme aforesaid testified by the sherife, Admeasurement shall be made by the default. Westm. 2. 13. Edw. 1. 7. Fitz. 125. h. 126. c.

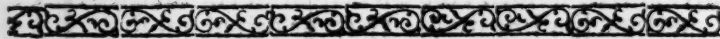
When any suit dependeth between parties for the wardship of an heire, or land, or for both, by the common writ de Communi custodia, resummmons shall be made &c. and when they haue passed to the great distresse, there shall be a time giuen, wherein there may be holden three Counties at the least, in euerie of which Counties there shall be open proclamation made, that the deforcoor shall appeare in the common place at the day contained in the writ, to answer the plaintife, at which day if he doe not appeare and the proclamation be so testified, the first, second, and third time, judgement shall be giuen for the plaintife, saving the defendants right, if he will at another time defend the same; In the same manner it shall be done in an action of Trespass, when any man complaineth himselfe to be eiection from such wardships. Westm. 2. 13. Ed. 1. 35.

*Commun
custodia.*

*Eiectione
custodie.*

The

Purveyances for the King.



The Sherife is to make certaine Purveyances for the King.

*Purveyances
for horses.*



In the old statutes it was provided, that all Purveyances that should be made for the kings great Horses, so long as they did sojourne in any Countrey, should be made by the sherifes of the Counties, where such horses did sojourne, and not by any other; And that the Purveyances made by the sherife in this case, shall be deliuered to the keepers of the horses, by Indenture. And the sherife was to make such Purveyances, of the issues of his Bailiwicke: And the number of the horses for which the sherife should make such Purveyance should be contained in his Commission or warrant &c. And that no Purveyance should be made ouer this number, saving that the chiefe keeper had an Hackney; And the sherife was to take good heede that the County were not charged of more than should keepe the horses, But for every horse a seruant, without bringing Women, Pages, or Dogs with them. And if any more were found abiding in the charge of the Countrey, they were to be brought to prison, there to remaine, till the King had sent his will. 14.E.3.19. But now quere of the validitie or vse of this statute.

10.E.3.44.
14.E.3.19

* Com-
mandement.

For dogges.

And in the same manner it was commaunded to the sherifes, that they should make Purveyances for the kings dogges, of the issues of their Bailiwickes: And that such Purveyances should be made by none other, but by the sherifes. And that it should be contained in his commaundement, the number of the dogges, for which he should make Purveyance, ouer which number no Purveyance should be made, so that they should liue of their certain, without charging the Countrey. And if any found himselfe grieved against this Ordinance, he should recouer against the sherife for such grievance done vnto him. Quere also of the vse of this statute.

14.E.3.19.

Sherifes

Sherifes are to certifie into the Exchequer, certaine defaults.

33 H.8.

By the statute made anno 33. Hen. 8. cap. 5. it is appointed how many stoned hozles, for the saddle, euerie man shall keepe for his degree, or lining, sci-

Keeping of Horses.

licet, euerie

Archbishop } 7. stoned trotting hozles, of 3. yeares & by-
Duke } ward being neither cart nor sumpter hozle.

Marquesse } 5. stoned trotting hozles.

Earle }
Bishop } If the Bishopricke be of the yearely value of
1000. l. 5. hozles; otherwisse but 3. hoz-
les &c.

Viscount } whose lining is per annu 1000. markes, 3. hozles.
Baron }

Euerie other Bishop, Viscount, and Baron

Euerie other spirituall person hauing be-
neffices worth per annu 500 markes } 2. hozles.

Euerie temporall person hauing per annu
600 markes

Spirituall persons hauing benefices worth
per annu 100. l.

Temporall persons, whose wiues shal weare
any golone of silk, french-hood, or hat of
veluet edged &c. or gold chaine &c. } 1. hozle.

Euerie Sherife in euerie shire within this realme shal do his diligence, to search and know by vertue of his office, all defaults done or committed by any person, in lacking of hozles contrarie to this act, as shal happen within the shire where he is Sherife, and shal once in the yeare, scz. in Michaelmas terme, certifie the said defaults (if any be) into the Kings Exchequer, by writing vnder his seale, to the end that proces may goe out against the offendours: and euerie such certificate of the Sherife (being made within one yeare next after the offence) shal be of the force of an information &c. And if any shal be conuict vpon any such certificate, the Sherife making such certificate, shal haue the one moitie of the forfeiture &c.

But quere if this statute bee not repealed by the statutes
4. & 5. P. & M. ca. 2. & 1. Ia. 25.

The

The Sherife Courts.

The Sherifes Courts.



Appareth by Fineux chiefe Justice 12.H.7. 12.H.7. 518.
that at the first all administration of justice 2.
was in one hand, scz. in the king, (so as no Br.Lect. 24.
law was vsed nor justice administred, but on-
ly before the king himselfe) but afterwards
the administration of justice was diuided in=

to counties, so as this power was committed to the sherife
within euery countie: And for his better gouernment of the
countie, and for the punishment of euill doers therein, the
Sherife had two powers or Courts appointed vnto him;
the one the Sherifes Corne, vnto which all the county, scz.
euerie man of a certaine age should come (yea were compel-
able to come) there to heare the articles and things giuen in
charge, that so they might not be ignorant of the lawes,
whereby they were to be gouerned, and where also they were
to be sworne to their allegiance to the king, the other was
the Countie Court, the which was to giue remedie between
man and man, for any thing betweene them vnder xl.s. And
so by these two courts all the countie was gouerned at the
first.

Afterwards by reason of the multitude of people, and for
their ease (and better gouernment, and moze easie admini-
stration of justice) Letts were deriued out of the Corne, and
were graunted to the Lords of Manors, And Hundred
Courts were deriued out of the Countie Court, and were
granted to the Lords of certaine liberties, to hold plea al-
so vnder xl.s.

So that the sherife hath the keeping of two courts com-
mitted or assigned to him, scz.

1. The Corne for the gouernment of their countie, and
to refozme Purlances &c.

2. The Countie (or Shire) Court, to hold plea within
their countie of debtes, trespasses, and the like, being vnder
xl.s. And if the sherife shall hold any plea in any other court
than in the Countie Court, it is coram non Iudice. 7. E. 4. 23.
Br. Iustices 3.

The

The Sherifes Torne.

Co. 9. pref.



Sherifes of ancient ordinance do hold generall assemblies twice a yere, in euery hundred, whither all the freeholders within the hundred are bound to come, by the seruice of their fees, that is to say, once after Michaelmas, and another time after Easter: and because the sherifes for the doing hereof make their Tozns (or Courtes) through the Hundred such assemblies are called the Sherifes Torne, or Sherifes Courte.

*In shesenn
Hundred.*

Brit. fo. 71.

And master Lambert saith that this Court of old was called also the Sherifes Moote.

In this Court it belongeth to the Sherifes to enquire of all offences personall, and of all the circumstances of offences done in those Hundreds, and of wrongs done by the Kings and Queenes ministers, and of wrongs done to the King, and to the comminalltie &c.

Fitz. 160. c. 161.

It appeareth by Britton, that all the freeholders, and terre tenants, and other persons, inhabiting within the hundred, ought to come to the Sherifes Tozne, (none excepted, but Barons, Clergie men, and women; for these, their presence was not, nor is not necessarie there, for that they are neuer swozne vpon any Enquestg.) See 52. H. 3. c. 2. & 10. & Br. Leer 42.

Susort.

Br. Leer 38.

And yet tenants in auncient demesne are not bound to come to the Sherifes Tozne. Fitz. 161. c.

52. H. 3. c. 1.

Also they which haue Hundreds of their own to be kept, shall not be bound to appeare at the Sherifes Tozne, but in the Bailiwicke or Hundred where they be dwelling, Stat. 52. H. 3. ca. 10.

Fitz 160. 2.

And if any man who hath lands in diuers places of the Countie and in diuers Hundreds, be distreined to come to the Sherifes Tozne, in any place where hee dwelleth not, (but that hee be dwelling within the precinct of another Hundred) then he may haue a writ directed to the Sherife, commanding him to discharge the partie for comming to any other Tozne &c. than within the Hundred where hee dwelleth. The forme of which writ you may see Fitz.

160. 2.

The Sherifes Torne.

The Iurie.

In the Sherifes Torne twelue (at the least) of the most discrete and sufficient freeholders within the Hundred, ought first to be impanelled and swozne (by the Sherife) to enquire of, and to present all things there enquirable and presentable: and after all the rest which appeare there ought to be swozne (*per dozens, per villas*) by the Dozeners and villages; and these shall present to the first twelue Iurozs such things as shall be giuen them in charge.

*Brit. 71.
Crompt. 212*

And when the dozeners and villages haue deliuered their presentments to the said first Iurie, and that the first Iurie are agreed of their presentments, then they must giue vp to the Steward or Court keeper, such presentments as they will stand to and auow; and if there be any of felonie, they must deliuer those by by themselves to the steward priuily, and the rest openly.

Crompt. 213. a

But it is vsed in some places, that one enquest is impanelled for the bodie of the Hundred of the freeholders, to whom the Constables (or Thirdboroughs, &c.) of euerie towne and village within the same hundred, which come to the Sherifes Torne, doe present vpon their oathes, the defaults within their seuerall townes to the steward, & he informeth the dozeners, of such things as they haue so presented.

Crompt. 212

*The suffici-
ency of those
Iurozs.*

By the stat. made 1. R. 3. ca. 4. it is enacted, That no bailife, or other officer, shall impannell or retorne in any Pannell, any person to be taken or put in, or vpon any Enquirie in any Sherifs Torne, but such as be of good name & fame, and which haue freehold lands or Tenements within the same County, to the cleere yerely value of twenty shillings at the least; Or Coppihold lands or tenements within the same County, to the cleere yearely value of xxviij. shillings and eight pence at the least. And if any Officer shall impannell, or Retorne any person contrary to this statute, hee shall loose for euery person so returned, or impanelled (not being of such sufficiency) fortie shillings. And the Sherife or other forty shillings, the one halfe to the King, and the other halfe to such as will sue for the same &c. And besides euery Inditement in other manner taken, before the Sherife in his Torne, shall be void.

*Their num-
ber.*

By the statute made añ 13. E. 1. c. 13. it is ordained, that sherifes in their Tornos (and in other places where they haue authoritie to enquire of malefactorz or trespasses) shal cause their enquests to be made (or make their inquisitions) by xij. men at the least, and by lawfull men, which shall put their seales to such inquisitions,

And

And because the said inquisitions taken by the sherifes should not be imbeilled nor concealed, therefore by another statute made an. 1. E. 3. c. 17. it was enacted, that sherifs (and bailiffs of liberties, and all others who take indictments at their Tournes, or elsewhere) shall take those indictments by roll indented, wherof the one part shall remaine with the inditors, vnder the hand and seale of the sherife, & the other part with the sherife, or him that taketh the enquest, so that the indictment shall not be imbeilled &c. and so that one of the enquest may shew the one part of the indentures to the Justices, when they come to make deliuerance.

The presentments shall be indented.

9.H.3. c.35.

Note that the sherife ought to keepe his Torne in euery hundred within his countie, as is aforesaid, Co.9. Preface. Fitz. 160. a. Br. Lect 42.

The place.

But the sherife ought to keepe this his Torne no where but in due place and accustomed, and that by force of the statute of Magna chart. cap. 35.

And if the sherife shall keepe his Torne in loco inconsequens, he may be indicted and punished for the same. See Dyer 151. sit John Saluages case.

31.E.3. c.19.
6.H.7. c.13.
Fitz. Torne
2.

Also the sherife ought to keepe, or hold this his Torne but twice in the yeare, scz. within one moneth after Easter, and within one moneth after Michaelmas; And if he shall hold his Torne at any time after the moneth from the said feast dayes of Easter and Michaelmas, it is hold, by the stat. of 31. E. 3. And all indictments and presentments so taken by him after the said moneths are hold. See 38. H. 6. fo. 7. And besides the sherife shall lose his profits thereof &c. Br. Lect 17. & 21. & Indictments 9. 27.

Time.

6.H.7. c.12.

The reason why the Torne must be holden after Easter and Michaelmas. appeareth in the statute of 31. E. 3. cap. 13. scz. for that the Torne being held in Lent, it hindred deuotion, & being in Harvest, it hindred the people in their busines &c.

Also the sherife keeping his Torne oftner than twice a yeare, or after the said moneths (next after the feast dayes of Easter, and of saint Mich. tharchangell) he may be indicted for the same, as it seemeth.

Fitz. Lect
11.

Note that the Sherife in his Torne holden after Easter, ought not to enquire of any action popular &c. but onely hee is then to take their suit which are Suitoys, and to take the view, scz. quod Trithinga tenentur, scz. that all aboute the age of twelue yeares come and appeare there &c. But at his Torne holden after Michaelmas, then he shall

enquire

The Sherifes Torne.

enquire of such things as are there inquirable. See. stat 9.

H.3.c.35.

Est Incident.

This Court (called the Sherifes Torne, Turnum) is be-
longing & incident to the office of the Sherife, & ought not to
be severed from it: And the Sherife is iudge therin, and is to
appoint Clerks under him in this Court, such as he will an-
swere for at his perill.

Co.4.33. a
6.12.

Vic' Iudge.

But the Sherife ought not to take any thing for the hol-
ding or keeping of his Torne: Neither can he prescribe to
take any thing, for that he is an officer remouable.

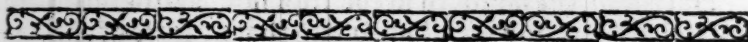
42.E.3.4.
31.
Br. officia.
831.

*Ne' poss pre-
scribe.*

The Style.

The style of the Torne or Court must be thus, Vis. Fran-
cipleg' dni Regis tent' apud L. coram vicec' in Torno suo &c.
And not Torn vicec' tent' tali die apud L. For this word
Torne is but the perambulation of the Sherife.

Fitz. Leet.
11.



What things are inquirable in the Sherifes Torne.

Treasons.

The Sherife in his Torne, ought to enquire of such as
are mortall enemies to the King, the Queene (his
wife) or to their children: And of the Counsellors,
Procurers, Consenters, and ayders,

Crompt. 312

Also of such as falsifie the Kings Seale.

Stat. 18. H. 2

And of such as falsifie the Kings money; or shall wash,
or clip the same; but W. Brooke maketh a quare thereof,
titulo Leete 26.

Felonies.

They are also to enquire in their Torne, of all manner of
felonies by the common law, as of murder, manslaughter,
and other Homicides: See the stat, 52. H.3. c.24. & 3. Ed.
1. c.11.

Crompt. 312

And yet see Br. Leets. 26. & Fitz. Torne 5. and the booke
22. E.4. fol. 22. by the opinion of all the Justices, That the
power of the Sherife in his Torne, was to enquire of all fe-
lonies at the common law, except the death of a man.

They are there to enquire of Burglaries, Robberies, and
Thefts; and of the receivers of such offenders.

Of burners of houses, or stacks of cozne feloniously.

Of breakers of prison, being therein for felony.

Of ravishing of women, stat. 18. E.2. Crompt. 212. Yet
the booke 22. E.4. & Br. Leete 26. & Fitz. Torne 5. are con-
trary, as being a felonie by statute, and not by the common
law. Sed de hoc quare.

Of Doysoners,

Of

Of Sorcerers, Conjurers, and Witches: which offences were felonie by the common law, and the offenders therein were to be burned. See Fitz. 269. b. *quodammodo*

Of Pettie Larcenies, in stealing hens, geese, or sheafes of corne, &c.

Of such as take Theft-boote.

Br Leets 25

But note that the sherife in his Torne, hath no authority to enquire of any felonies by stat. as cutting out of tongues, putting out of eyes, &c. 28.E.3.95. 21.E.4.21. Fitz. Torne 5.

Note also that no sherife within any of the Counties in Wales, shal haue power to enquire of any manner of felony, in any their Leets, Law dayes, or Tournes, within the same Dominion to be holden. Stat. 35.H.8.cap.26.

Also sherifs shal enquire in their toynes of the escape of any felon; And of any person imprisoned (for any other cause) which is let go without warrant or mainprise. Stat. 18.E.2.

And of such as haue abjured the Realme, and are returned without licence.

Of Outlawes, which retorne without the Kings warrant.

Of Treasure troue.

Nota que Coyne troue, coment que ne fuit abscondita in terra, est Profitu le roy. Treasure troue, (& semble Inquirable icy) Br. Presentments 24.

Ilsint semble de money, plate, ou bullion troue, le owner nient conus; Car ceux serrra dit Treasure troue, & le roy a vera eux. Br. Coron. 176.

Of Wayfes and estraies.

Crompt. 213

Of wrecke of the Sea found and reteined.

Of those which claime any franchise reall.

Of new franchises, or customs, leuied on land or water.

If any man hath a faire, or Market, by grant or by prescription, and doth not hold, or keepe the same faire, or Market, as he ought to doe.

Of Purpessures made in any land, wood, or water, to annoyance. Stat. 18.E.2.

Common
Nuisances.

Of all walles, houses, hedges, & ditches, made by, or broken downe, to annoyances, *ibid.*

Of wayes, and pathes, streightned, or stopped.

Of any othr Nuisances, or annoyances, in the Kings high way, or in any common way or path: By turning, or altering them out of their ancient place; By ditches there not scoured. Br. Leete. 26. By laying any Carion, or Ducke &c. there.

Of the Kings high wayes, if they be not enlarged, & cleansed of bushes, and trees according to the stat. of 13.E.1.c.5.

The Sherifes Torne.

Of **Aulances** in any **Riuers**, or common waterings by stopping, streightning, or turning.

Of **Bridges**, and **Tawles** decayed, or broken, &c. and who ought to repaire them.

And of all other, common or popular **Aulances**, or **grievances** Done to **diuers** or **sundry** of the **kings** **subiects**.

Trespases.

Also the **Sherife** in his **Torne** may **Inquire** of **Affraies**.
Br. **Presentments**. 7.

And of **Bloodsheds**. Br. **Leete**. 26. **Fitz.** **Torne** 4.

If there be any **misdoer** within the **Hundzed**, wherby any **perill** may come to any **person**, of **life** or of **member**, the **name** of such **misdoer** is to be **presented** in the **Sherifes** **Torne**.

Of **Poundbreaches**.

Also all other things being a **Trespasse** at the **Common** **Law**, and **popular**, is there **Inquirable**.

But of such things as are **trespases** by **Statute**, or **Offences** against any **statute**, the **Sherife** hath no **power** to **Enquire** thereof in his **Torne**; **Except** the **statute** doth **expresly** therein **give** **authoritie** to the **Torne**, or **Leete**. See 28. E. 3. 95. 21. E. 4. 21. 3. H. 7. fol. 1. Br. **Leete**. 19. & 25.

Neither shall any other thing be **enquired** of in the **Torne**, but onely such **Aulances** **grievances**, **offences**, or as **trespases** are **popular** and **common** **grievances** to many **persons**, And therefore **assaults** made to a **sole** or **particuler** **person**, is not there **Inquirable**; **Except** there be **bloodshed**.
Dyer 234. **Fitz.** **Torne** 1. 4. 4. H. 6. f. 10.
Br. **Pres**. 7.

Neither can they **inquire** there, of a **Close**, **debzuised** (or **broken**) for that is **particuler**. Br. **Leete**. 26.

Euill members.

The **Sherife** also in his **Torne** may **enquire**, of **malefactours** in **Parkes**.

Of **takers** of **Doues** in **winter** by **doozefalls**, or other **engines**. 18. E. 2.

Of **Usurers**. **Crompt.** 212.

Of **Hue** and **Cry** **lewied**, and not **pursued**.

Of **Hue** and **Cry** **lewied** without **cause**.

Of **Right walkers**. Br. **Leete**. 26.

Of those which **goe** in **message** of **theeves**.

Of

Of those which sleepe by day, and watch by night, and fare well, and none knowe whereof they liue.

Of those which continually doe haunt Taverns.

Also the Misme of bread, beere, or ale, broken, is there inquirable: Stat. 18. E. 2. Br. Leete. 35.

If any Hosteler or Inholder shall make any horsebread, which is not sufficient, lawfull, and of due Misme, &c. the Sherife in his Torne may inquire thereof, and determine the same, by the stat. 32. H. 8. c. 41.

False measures, false ballances, and false weights are there inquirable: Stat. 18. E. 2. : see Stat. 9. H. 5. c. 8.

If any haue double measures, (as bushels, galons, yards, or ells,) and buy by the greater, and sell by the lesser, it is there inquirable. Ibid.

And yet see the booke, 3. H. 7. f. 1. et Br. Leete 19. a presentment in the Sherifes Torne, that a man did vse false measure of a bushell, and the presentment was adiudged to be void, for that it was giuen by statute, and the statute gave no expresse authoritie to the Sherife to enquire thereof.

If night watches be not duely kept (according to the statute of Winchester) it is there inquirable.

If any person shall make a prison of, or in their owne houses, it is there inquirable: Crompt. 2 12.

Homefoken, or forcible entree into houses, without licence, and contrarie to the kings peace, seemeth to bee there inquirable: Crompt. 2 12.

Attachments made by the officers of the Courts of the East Marches, or West Marches, &c. are there inquirable, by the statute of 31. H. 6. c. 3. But seemeth to be repealed by the statute 4. Ia. c. 1.

7. E. 6. c. 5.

Also the Sherifes in their Torne may inquire of all offences committed, contrarie to the statute made 7. E. 6. to auoid the excesse, as well of spending, as of the prices of wines: and euerie presentment thereof taken by the oathes of xii. men in the Torne, shall be of such force, as if the same were taken in the Kings Bench.

Also they shall inquire, if all the Jurors and suitors which owe suit to this Court be come (18. E. 2.) &c. If all persons of twelue yeares of age or upward, dwelling within the hundred, bee come to this Court (except Clerkes,

* Quere de
chivalers.

* Knights, and women: Crompt. 2 13.)

Lastly, the Sherife in his Torne, hath authoritie to inquire of all other things or offences that is either felony, or trespassse at the Common Law, and of all other Articles and things

The Sherifes Torne.

Of **Ruances** in any **Rivers**, or common waterings by stopping, freighting, or turning.

Of **Bridges**, and **Catwies** decayed, or broken, &c. and who ought to repaire them.

And of all other, common or popular **Ruances**, or **grievances** done to **diuers** or **sundry** of the **kings** **subiects**.

Trespases.

Also the **Sherife** in his **Torne** may **Inquire** of **Altraies**.
Br. **Presentments**. 7.

And of **Bloodsheds**. Br. **Leete**. 26. **Fitz. Torne** 4.

If there be any **misdoer** within the **Hundred**, whereby any **perill** may come to any **person**, of **life** or of **member**, the **name** of such **misdoer** is to be **presented** in the **Sherifes Torne**.

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Neither shall any other thing be **enquired** of in the **Torne**, but onely such **Ruances** **grievances**, **offences**, or as **trespases** are **popular** and **common** **grievances** to many **persons**, And therefore **assaults** made to a **sole** or **particuler** **person**, is not there **Inquirable**; **Except** there be **bloodshed**.
Dyer 234. **Fitz. Torne** 1. 4. 4. H. 6. f. 10.
Br. **Pres** 7.

Neither can they **inquire** there, of a **Close**, **debysied** (or **broken**) for that is **particuler**. Br. **Leete**. 26.

Euill members.

The **Sherife** also in his **Torne** may **enquire**, of **malefactours** in **Darkes**.

Of **takers** of **Doues** in **Winter** by **doorefalls**, or other **engines**. 18. E. 2.

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Of **Hue** and **Cry** **lewied**, and not **pursued**.

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If any Hosteler or Inholder shall make any horsebread, which is not sufficient, lawfull, and of due Mise, &c. the Sherife in his Torne may inquire thereof, and determine the same, by the stat. 32.H.8.c.41.

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If any have double measures, (as bushels, galons, yards, or ells,) and buy by the greater, and sell by the lesser, it is there inquirable. Ibid.

And yet see the booke, 3.H.7.f.1. et Br. Leete 19. a presentment in the Sherifes Torne, that a man did use false measure of a bushell, and the presentment was adiudged to be bold, for that it was given by statute, and the statute gave no expresse authoritie to the Sherife to enquire thereof.

If night watches be not duly kept (according to the statute of Winchester) it is there inquirable.

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Homefoken, or forcible entree into houses, without licence, and contrarie to the Kings peace, seemeth to bee there inquirable: Crompt. 212.

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Also they shall inquire, if all the Jurors and Sutors which owe suit to this Court be come (18.E. 2.) &c. If all persons of twelve yeares of age or upward, dwelling within the hundred, be come to this Court (except Clerkes, knights, and women: Crompt. 213.)

* Querre de chivalers.

Lastly, the Sherife in his Torne, hath authoritie to inquire of all other things or offences that is either felony, or trespasse at the Common Law; and of all other Articles and things

The Sherifes Torne.

things inquirable in a Court Leete (if they haue been omitted, or not formerly inquired of and redressed or punished in the Leet.) For that all Leets were at the first deriued & take out of the Sherifes Torne, so that for default of inquirie in Leets of things there inquirable, the same things there omitted, and not inquired of, &c. ought to bee inquired of in the Sherifes Torne, (and if it bee there omitted, then to be inquired of by the Iustices of the Bench, at their comming into the countrey: see 8. E. 4. fol. 21. E. 3. fol. 3. 29. E. 3. 27. 41. E. 3. 26. 43. E. 3. 29. et 18. H. 6. 12.

11. E. 3. Torn 3.
Br. Leete 16

Dyer 13.]

Br. Pref. 1.
Crompt. 212.

Mes le Signior del Leete auera les amercements, sur l'enquirie cwe devant le vicomte ou devant les Iustices, quere: Fitz. Leete 13.

And it hath beene adiudged that the power of a Sherife in his Torne, and of a steward in a Court Leete, is all one: 22. E. 4. Br. Leete 26.

Also the Sherifes Torne is sometimes in our booke, called the Kings Leete, and sometimes the Sherifes Leete, or the Leete of the Torne of the Sherife: see Br. Leete 21. et 23. which appeareth also by the stile of the Torne, hic antea.

If the Sherife shall inquire of a Rulance in his Torne, & the same shall be found, which ought to haue bin inquired of in the Leete of another man, and hath bin vled to be found there, the Sherife cannot distraine for the amercement vpon this presentment, and if he doe distraine he is a trespassor: but if default be in the Lord of the Leete, that he did not inquire thereof, or that the same be not found in his Leete, when it ought to be inquired of, the Sherife then by the lords default may inquire thereof in his Torne: 21. E. 3. 3. 28. E. 3. 95. 10. H. 4. 4.

Crompt. 212.

Note if a Rulance, &c. be within a franchise, the Sherife ought not to punish this, but it appertaineth to the lord only to redresse this, for otherwise euerie lord might loose his franchise in euerie thing: but if apparant default shall be in the Lord, as in not keeping his Leete, or that hee will not punish the offenders, then the Sherife may inquire thereof in his Torne, and it being found there, the Sherife may punish the same: see 29. E. 3. fol. 27.

But if the Sherife in his Torne shall inquire of any thing, which is not there inquirable, it is void, as being taken Coram non Iudice.

Nota que le vic' auera les amerc' et fines, (et diners auters profits) del ceo Court; Et il nad ascun auter chose de leuier son grand sum ou esque que chescun vic' est charge sur son accomnt, sinon de cest court, car le Torne (et les profits del ce) est al vic': Et est son Court, et ney le Court le roy per Tremayle 6. H. 7. f. 2. 3.

whereas

28.E.3.c.9.
Sec 42.E.
3.c.4

Whereas in times past sherifes by vertue of Commissions and generall writs granted to them at their owne suit, for their private gaine, did take diuers enquests to indite people at their pleasures; and then tooke fines of them to their owne vles; and deliuered the parties so indicted, without bringing them befoze the Kings Justices: It was therfore by a stat. made 28.E.3. ordained, that all such Commissions and writs should from thenceforth bee repealed, and none such after to be granted: so that the sherife (by that statute) is restrained to make any enquire by writ or Commission, except in some speciall cases, whereof see Fitz. 92. cap. hic postea fol.

*Vic' no fers
Enquire per
breus, &c.*

1.E.4.c.21

Fitz. Torn 3.
Br. Present-
ments, 16.

Afterwards for that diuers persons were greatly troubled by the inordinate indictments & presentments (as well of felonies & trespasses, as of other things) taken befoze sherifes, their vndersherifes, & other ministers, at their Tournes & lawdaies, which indictments were often affirmed and found by Jurors hauing no freehold, &c. and sometimes by meniall seruants and bailifes of the said Sherifes, &c. By reason whereof many people were arrested, and put in prison by the said Sherifes, and their ministers, and then were constrained to pay to them great fines, to be deliuered out of prison: And further, the said sherifes, &c. had the awarding of proces vpon such indictments, when they were found, and the assessing of the fines; and also the said indictments were often imbeasled and concealed: For the reformation whereof it was ordained by a statute made anno 1.E.4. that vpon all presentments and indictments, which shall be take befoze any Sherife (Vndersherife, or other Ministers) in their Tournes or Lawdaies, they shall haue no power to attach, arrest, or put in prison; nor to leue or take any fines, or amerciaments of any person so indicted or presented befoze them, by reason or colour of any such indictment, or presentment, nor to take of any person so indicted or presented, any fine or ranome; but that the said Sherife (or other ministers) shall bring and deliuer all such inditments and presentments (taken befoze them in their Tournes) to the Justices of Peace, at their next Sessions of the Peace that shall be holden in the Countie where such inditments or presentments shall be taken, vpon pain that euerie Sherife (Vndersherife, Clerke, Bailife, or other ministers) failing to deliuer or present any such indictment to the Justices of Peace at such Sessions of the Peace as aforesaid, to forfeit fortye pound,

*Four Indits-
ments/erra
deliuer al
Justices.*

And

The Sherifes Torne.

*Les Iustices
triers offen-
dor.*

And the Iustices of Peace are to award proces, vpon all such Indictments and presentments, and to trie arraign and deliuer the offenders, and not the sheriffe: and also the said Just. of peace, shall haue power to set such fine vpon e- uery person indicted or presented (in the sherifes Torne) of or for any trespassse, as it shall seeme good to them in their discretions; And the estreats of the same fines and amercia- ments shall be Intolled, and by Indenture deliuered to the said sheriffe, vnder sheriffe, or their clerkes, or ministers, to the vse and profit of him that was sheriffe of the said county at the time of the taking of such Indictments or present- ments: and if any vndersherif clerke bailife or minister shal cause to be attached, arrested, or put in prison, or shal cause to be taken any fine, or ransom, or leuie any amercenments, of any person so Indicted or Presented, by colour of any such indictment or presentment (before him or them) taken at their Torne, before they haue proces from the said Just. of peace, or estreats deliuered out of the said Indictments or Presentments (so deliuered to the Just. of peace), the sheriffe so offending shall forfeit 100. li. the one halfe to the R. sc. and the other halfe to the party thereby indamaged.

*Et estreats
de fines, &c.*

Al use le vis

But this statute extends not to Indictments taken be- fore the sherifes of London in the said cite; nor to any per- son hauing the grant of fines or amercenments by any letters patents of the king sc. nor to any person hauing any li- berties or franchises by any letters patents, or in any o- ther manner by prescription.

1. Ed. 4. ca. 2.

Neither doth this statute giue authority to the Iustices of peace, to award proces vpon all Indictments taken in the sherifes Torne when they be brought and deliuered them; but onely of such Indictments as shal be lawfull and suffi- cient, and such as containe matter whereof the sheriffe hath iurisdiction in his Torne, and power to make enquisie by the common law. for if the sheriffe in his Torne shall make enquisie of Huerties giuen contrary to the statute of liueries, or will enquisie of the statute of laborers, or Indict one who did feloniously rauish a woman, or such like, which bee not iniquitable in the sheriffs Torne, though such Indictments be by him brought and deliuered to the Iustices of peace ac- cording to the said statute made 1. Ed. 4. yet they ought not to award proces thereupon for that they were taken coram non iudice, and so void.

Br. Present-
ment 16.
Fit. Torn 3.
4. E. 1.
8. E. 4. 5.

Also if the sherifes, &c. shall not deliuer their inditements and

and presentments (taken in their Tournes) to the Justices of peace, according to the aforesaid statute made: 1. E. 4. then such indictments, &c. not so delivered, &c. are void: Vide Fitz. tit. Torne de Vic. 6.

28 E. 3. c. 9.

So then (at this day) sherifes shall make no inquiries, nor take any indictments by Commissions procured at their own suit; Nor else where, but in their Tournes; And they shall hold their Tournes, and take indictments, but in convenient and usual times and places; And they shall take their indictments by the oath of twelve men at the least; and by roll indented and sealed between the sherife and the Jurors; and they shall take their indictments by men of good name and credit, (legales homines) and sufficient of estate; and they shall bring and deliver their indictments and presentments found and made in their Tournes, to the Justices of peace of the same Countie, that they may award proces against the parties indicted, and assesse fines upon them.

Fitz. 92. c.

And yet if any man hauling the kings protection, another shall take his goods, or shall enter into his lands, &c. or shall beat his servants, &c. he may have a speciall writ or Commission to the sherife (of that countie) to make inquirie thereof, and to certifie the same before the king, &c. and thereupon proces shall be made out against them (in the kings name) by Venire facias: as upon an indictment, and that they shall be fined therefore.

Register
153. 154.

So if any bridge, or wall, cause, or sewer shall be broken, to the annoyance of the countrey, it appeareth by the Register, that the king may send his Commission to the sherife, to inquire who ought to make such bridge, &c. and to distrain them to repaire it, &c.

28 E. 3. c. 9.
42 E. 3. c. 4.

And although by the former statutes of 28. E. 3. c. 9. et 42. E. 3. it was ordained that no Commission or writ should be thenceforth granted to the sherife to make any inquirie, &c. yet if the king shall grant out such a Commission or writ to the sherife, quære, if it be not good; it seemeth to Master Fitz. 92. c. that it is not good, for that this statute bindeth the king that he cannot now grant out such a Commission to the sherife; and yet enquests of office may be taken by the sherife, as in wast, Redisseisin, &c. see hic fol.

The power and authoritie of the Sherife, in, or by reason of his Torne.

Mag. Chart.
17.

The sherife in his Torne cannot hold plea of any thing pertaining to the kings crown: nor of any thing touching freehold or lands, nor of debt, trespass, or other matter.

But

The Sherifes Torne.

But this Court, and the authoritie of the Sherife therein, is onely or principally for the good ordering and government of the countrey, by taking view of the suitors, and inquirie and presentments of offences committed therein against the peace, and of other common Rulances and grievances within the Countie.

But the further proceeding upon such inquirie, presentments, and inditeiments made and taken before the Sherifes in their Tournes, belongeth now to the Justices of peace, &c. as aforesaid, by force of the stat. of 1.E.4.c.2. before recited.

And yet note that the Sherifes Torne, is a Court of Record (in all things that pertaine to the Torne,) and the Sherife therein is a Judge of Record, and hath authoritie (in some cases) to imprison offenders, to asseesse fines upon them, and to take recognisances: Br. Lect. 39.

The Sherife in his Torne (or his steward there) may commit him or them to ward, that shall make an Assay in their presence, whilst they bee in execution of their office: And may also by recognisance bind such offenders to the peace; and may commit them to ward untill they haue found sureties for the peace.

If any other contempt or disturbance to this Court shall be committed in the said court, before the Sherife (or steward there) they may impose upon such offenders a reasonable fine: see Br. Leete 14.36. Co. 8. 38.

The Sherife in his Torne (or his steward there) may take the examination of felons, and may commit them to the Gaole: And may also take the presentment of any felony at the Common Law, committed within their precinct, as you may see here before.

In the Leete, or Sherifes Torne, if one that oweth suit thereto, will not be sworn, &c. he shall be fined and imprisoned, (by the Sherife or steward there) untill hee hath paid such his fine: Or he may be amerced, and bee distrained for such amerciamment. Fitz. Lect. 11.

So if a suitor, being sworn of the Iurie there, shall refuse to make presentment there: or if a Juror there shall depart without giuing by their verdict, the Sherife (or steward) may impose a reasonable fine upon such offenders. Co. 8. 38.

So if the Sherifes bailifes, or other officers belonging to this court, shall refuse in Court, to execute their office, they may be fined as aforesaid: And so in other like cases happening in this Court before the Sherife, he being Judge therein. Ibid.

Upon a presentment of a Rulance in the Sherifes Torne, Cro. p. 212. a.
the

the offendoz may be amerced there by the sherife, and the sherife may distraine for that amercement, throughout all his county, by the booke 2.H.4.f.24.Br. Lect 41. but now it seemeth that such presentmēt must be deliuered to the Iustices of peace, & they are to try the offendoz, &c. and to fine him, and then to estreat the same; before the sherife may leuy or take fine or amercement for such Rulance: see the former statute of 1.E.4.c.2.

3.E.4.4.
1 it. Torn 4.

If a presentmēt of a bloodshed &c. shall be lawfully made in the sherifes Torne, the offendoz shall make his fine there (as it seemeth) & shall not be put to answer the same before the Iustices of peace, &c. Note that this case was so adiudged after the making of the former Stat. 1.E.4. et q̄re inde.

32.H.8.

If a Purpresture be presented in the sherifes Torne, the sherife may reforme and pull downe the same: Crompt. 2. 12. a.

By the stat. made 32.H.8.c.41. if any Inholder or Hosteler shall make any horsebzead, which is not sufficient, lawful, & of due assise, & that the offence be presented in the sherifes Torne, the sherife thereupon may determine the same, scz. may assesse a reasonable fine vpon the offendozs, & may make out proces against them, and being taken may commit them to prison untill they haue paid their said fine.

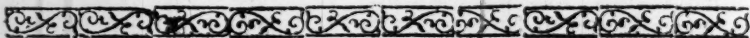
Hic fol.

Also by the stat. made añ 13.E.1.c.13. such malefactorz, in felony, or trespass as were duly indicted and found culpable in the sherifes Torne, the sherife might haue apprehended & imprisoned them, &c. and the apprehending, arresting, and imprisoning of felons, being an authoritie given to the sherife by the common law seemeth not to be restrained, by the intent and meaning of the said statute made 1.Ed.4.

But this Court (the Sherifes Torne) is now almost grovne out of vse, the reason whereof M. Wilkenfon well obserueth to bee, That sherifes haue vled to sell, both their vndersherifewicks, and bailiwicks, to men of meane estate, that regard not the good of the commonwealth, but altogether their owne priuate gaine and profit; whereby the king is many times much wronged and deceiued betweene the vndersherife, and the bailifes) of all his wayffes, Estrapes, felons goods, & other profits which are things inquirable in the sherifes Torne, and which are taken vp by the bailifes, and neuer accounted for, which thing as it may touch the sherife in his credit and reputation, so in his Dath: for when hee entreteth into his account for the payment of the Kings debts, he is then swozne to answer and account for all wayffes, strapes, felons goods, debts, perquisites & profits

The Countie Court.

at s, which seldom or neuer, either the king, nor yet the high
sherife knowes of because these ancient Courts are not kept
as they ought to bee.



The Countie Court, or Shire Court.

*Incident al
offis del vis.*



The Countie Court (as well as the Sherifes Ca. 4. 33.
Cozne) hath of ancient time bene belong-
ing to the Sherife; And is incident and be-
longing to the Office of the Sherife, and
not to be seuered nor graunted away from
it; nay the king by his letters patents can-
not grant away the office of the Clerke of the countie court,
nor the fees, &c. thereto belonging; and if whilest the office
or place of the Sherife remaines void, the king (by his let-
ters patents vnder the great seale) shall graunt away the
said office of the clerke of the countie (or shire clerke of the
countie) or shall appoint any to occupie or vse the same, yet
when the king shall afterwards make one sherife, hee shall
auoid that grant. For that the countie court, and the en-
tring of all the proceedings therein, are incident to the of-
fice of the sherife; and the sherife is to appoint such clerkes
vnder him in his countie court for whom he will answere at
his perill.

The Times.

These countie courts (called also the shire courts) shall be 5. H. 3. c. 35.
2 E. 6. c. 25.
holden and kept from moneth to moneth: And shall be no
longer deferred, but one moneth from court to court, and so
the said courts are to bee kept euerie moneth, vpon a day
certaine, and none otherwise: And so within the twelue 34. H. 8. 26.
shires of Wales, their Sherifes shall keepe their counties
monethly.

The necessitie of keeping this court euerie moneth, and
vpon a day certaine, is by reason of the kings writs of exi-
gents which must be read there.

The Place.

The Sherife of Northumberland (by the Statute made
anno 2. E. 6. cap. 25.) is to keepe the countie court of that
shire, in the towne or castle of Alnewike, and in none other
place.

And the Sherife of Suffex (by the Statute made,
Anno

Anno 19.H.7.c.24.) is to keepe and hold the Shire Court for that Shire, one time at Chichester, and the other time at the Borough of Lewes, and so to be kept Alternis vicibus, for ever: And every Shire Court there holden to the contrary, and all things therein done shall be void.

33.H.8.c.13

And the Sherife of the Countie of Chester, is to keepe his Shire Court, in the Shire Hall of the said Countie.

37.H.8.c.16

And the Sherifes Shire Courts in Wales, of the Countie of Brecknock, shall be holden at Brecknock: of Radnor at new Radnor, & Brellon; of Mountgomery, at Mountgomery and Hagherleth, of Denbigh, at Wirham; and of Monmouth, at Monmouth, and Newport; Alternis vicibus.

In these Countie Courts (which are in manner as Court Barons) the Sherife is no Judge, but a Minister, 6.E.3.Br. la. *Que Iudga*
Court Baron. 11.12.19.

Neither is the Steward Judge there 39.H.6.fol.5. Br. Judges 15.

Co.4.32.&
Co.6.11.
Br. Judges
15.& Iustices. 6.

But as to all actions and proceedings by a Justices, or other writ, As also in other suits which are there by plaint without writ, the freeholders of the Countie or Sutors are Judges there: And as to Outlawries, the Coronors are onely Judges, scz. the Coronors are onely Judges there to give Judgement upon the kings writs of exigents; and yet if they be freeholders (as by law they ought to be) they are also Judges in all actions there sued. See 6.E.4.3.17.E.4.23.39.H.6.5.& 26 aff. pl.45. Br. Court Baron. 11.12.19. & Iustices 3.6.

And the Sherife (in their Countie Court) can doe no act without the assent of the freeholders or sutors (for that it is but a Court Baron) and if the Sherife shall doe any thing there without the sutors, an action of the case lieth against the Sherife, and not a writ of false iudgement; yet see Co.lib. 9. praeface, These Courts are called Counties, where the iudgements are given by the sutors, if there be no writ.

Note where a writ de Nativo habendo, shall goe to the Sherife to hold plea of a matter, there he is both a iudge, and an officer: but where the Nativo habendo is directed to him, returnable in Banco, there the Sherife is an officer, and no iudge: 11.H.4.Br. Off. 36. but quere, For in a justices the writ is, quod Iustices T.&c. And notwithstanding that the writ be directed to the Sherife to hold plea of the matter, & not to the sutors, yet the sutors are iudges: yet the Justices is a Commissio to the Sherife to hold plea, aswel as the writ

7.E.4.23.

The Countie Court.

de Natio habendo, Br. faux imprisonment. 30.

But the reason why the writ is directed to the Sherife, is for that the county court is the Sherifes court, and therefore great reason that the writ should be directed to him, to whom by law the Court appertaineth; To the intent that he should see two things performed there, *sc.* First to hold his Court, that iustice and right may therein be done to the parties; secondly that he may be answered of those profits of his Court which appertain unto him: But yet when he holdeth plea by force of the kings writ, this doth not change the nature, nor the jurisdiction of the Court; for the kings writ cannot alter the jurisdiction of any court Baron, County Court, or Hundred, &c. to make them Courts of Record, all which are meane, or base Courts by the common law, and have Judges authorized and appointed in them by the law, And therefore all things determined in these courts ought to be determined by the Judges of the same courts *sc.* by the Suitors onely.

Co. 6. 11.

Also see the Booke 2. H. 4. 24. That the Sherife cannot iustice to arrest or imprison one by a writ de Natio habendo, or by a Justices, for those writs are but Commissions to holde plea, and the Sherifes Court by these writs is become a Court of Record, Br. Faux. impris. 30.

Barreters.

By the statute 3. Ed. 1. cap. 32. No Sherife shall suffer any Barreters, nor any Stewards of great Lords, nor other (unless he be Attorney for his Lord, or Master,) to make suite, or to maintaine any Actions, or quarrels, nor to giue iudgements in their County Courts, nor to pronounce the iudgements, if hee bee not specially thereunto required, and praied of all the suiters, and attorneyes of the suiters which shall be at the Court: And if any doe the king shall punish grievously both the Sherife, and him that so doth. See hic antea fol.

Westm 1.

32.

Sec Co. 8.

36.

W. 27.

Attorney.

Any person may make a generall Attorney, to sue for him or them in all pleas, mooued for them or against them, in the County Court before the Sherife, or in any Court Baron &c. See Stat. 13. E. 1. c. 10.

Plaints entered there.

The Sherife, Undersherife, or shire Clerke, nor any other person in their name, nor by their commandment, shall enter any plaints, into their bookes, (in their Countie Court) in any mans name, unless the partie plaintife be in his proper person present in the Court; Or else by sufficient Attorney or Deputie that is knowne to be of good name and disposition; And the plantife shall find pledges to pursue

11. H. 7. c. 15

Plegij de prosequendo.

sue

sue his plaint, such persons as are knowne in that countie: And also the plaintife shall haue but one plaint for one trespassse, contract, or cause: And if the Sherife (Undersherife, or shire Clerke) shall enter or cause to be entered any more plaints than the plaintife supposeth that hee hath cause of action for against the defendant, then the Sherife, Undersherife, or Clerke, that doth enter or cause to be entered any such plaints contrarie to this Statute, shall forfeit for euerie default fortie shillings, the one halfe to the King, the other halfe to him that will sue and prooue the same, by action of debt, or information, &c.

Ibid.

After such plaints entered (in the Countie Court) against the defendant, the Sherife (Undersherife, or shire Clerke) shall make sufficient precepts, directed to the Bailifes of the said Hundred, to attach (or summon or warne) the defendant to appeare and answer to the said plaints; And if there shall bee any default in the said Bailifes of the Hundred, in not warning of the defendant to appeare, or in other executing of their said office (against any defendant in the Sherifes Court, according to the tenour of their Precept) then the said Bailifes shall forfeit for euerie default fortie shillings to the King, and to be convicted thereof by the examination of any Justice of Peace, vpon complaint thereof to them made by the partie griued; Or else the partie griued may sue in the Eschequer, &c. by Action of Debt, or Information, and there for euerie such default prooued against the Sherife, &c. the sayde Sherife or other Officer shall forfeit fortie shillings, the one halfe to the King, the other halfe to the partie griued.

Precept to warne the defendants.

Defaults in the bailifes

Ibid.

Also the said Sherife (Undersherife, Shire Clerke, nor their Deputies) shall make no Estreats to leuie the said Sherifes amerciaments (or shire amerciaments) vntill that two Justices of Peace whereof one to be of the Quorum) haue had the ouersight of their Bookes, and that the estreats bee indented betweene the said Justices of peace, and the said Sherife and Undersherife, and sealed with their seales, the one part to remaine with the said Justices, and the other part with the Sherife or Undersherife, to the intent they may vnderstand, if there bee any deceit or vntreue demeaning in them, in making of their bookes.

Estreats for the Shire amerciaments.

Viewed, and sealed by two Justices of Peace.

Also those persons which shall bee gatherers of the same

The Countie Court.

The Bailifes shall be sworn amerciaments (as Bailifes or other Officers) shall bee ^{Ibid.} sworn by the said Justices of Peace, that they shall take no more money than is forfeited, and contained in the Estreats, sealed with the seales of the said Justices of Peace upon the paine aforesaid; the same gatherers to bee convicted by examination of the said Justices of Peace, or one of them, as before is rehearsed: see my Countrey Iustice, tit^r Sherifes.

Procurment de suis la.

If the Sherife, or any of his Officers, shall procure others to commence suits against any person, and shall cause them to resort to their Countie, Hundred, or other Courts, &c. The partie attached upon any such suit, may Replevie his Distresse so taken, and remoove the suit before the Justices, &c. before whom if the Sherife, &c. bee convicted of such procurement, &c. hee shall bee amerced grievously to the King, and besides shall answer to the partie grieved treble damages: 13. E. 1. cap. 36.

Of what matters or causes, the Sherife may hold Plea in his Countie Court.

Playnts there

NOta quod Placita de Latrocinij, de Melleis, de Hutesio, de plagis et Appellis, Coram Coronatoribus et Vicecomite incipere possunt in Curia Comitatus; Sed ad praesens, licet olim, ibi non possunt determinari, Artic^{us} ad nov. Narr. 77.

*Nuisance.
Trespasse.*

Sed parva brevia de Nocumento, et alia vicecomitabilia; et placita de verberatione, et alia quaecunque transgressionem, ubi periculum mortis, vel membri, non evenit, et ubi quaeritur transgressionem non esse perpetrata contra pacem Regiam; ac placita Debiti, et Detentionis, sub summa quadraginta solidorum, ad vicecomitem (et ad alias Curias inferiores) pertinent Audiendum, et Terminandum. *Ibid.*

*Det.
Detinue.*

Ac etiam in quibusdam Casibus, Coram Vicecomite, placita terrae possunt placitari, Quemadmodum si quis deficit de Recto in Curia alicujus Baronis; in breve de Recto in tali Curia portato, Ea de Causa falsare poterit Curiam illam, et per idem breve placitare in comitatu; Quia illud breve in se hoc requirit, cum dicat, Et nisi fecerit, vicecomes noster Cantabr. faciat, ne amplius inde clām audiamus pro defectu recti &c. *Ibid.*

SO the the sherifes in their county courts, may hold pleas of, and examine, and determine certaine smaller actions, as of Det Detinue, trespasse, nuisances, and the like, where the det, or Damunages is vnder forty shillings.

By

Glocester 8

By the statute made 6. E. 1. c. 8. Sherifes shall hold pleas of trespasse in their counties, as they haue accustomed,

And by the statutes of 27. H. 8. c. 26. & 34. H. 8. c. 26. the Sherifes of the Counties of Wales, shall hold plea of Replegiare, and all other suits, and plaints, vnder forty shillings, in their countie or shire Courts, in like maner, as all other Sherifes doe within the Realme of England.

But this County Court cannot hold plea, where the debt or damages is forty shillings or aboue, vnlesse it be by a writ of Iusticies, (out of the Chancery) which the plaintife may procure if he will, to be directed to the Sherife: And that writ of Iusticies is a Commission to the Sherife to hold plea of any sum whatsoeuer: Neither is this writ of Iusticies retoznable, but shall be determined before the Sherife in his County Court.

Iusticies

In this County Court the actions must be called, as they are in a Hundred Court, or in a Court Baron.

Cantebr. fl. Prima com A. B. militis vicecom comitat^o pd. *Stile of the Court.*
(and so the next Court, Secunda com A. B. &c.) rent apud
castrum Cantebridgⁱ, tali die & anno &c. setting downe the
things stile at large.

Then the Bailife must make an Oyes, and say thus, (three times before the court) Essoines and Proffers *pur ce jour*: And then he must say, If any man wil be essoined, or enter any plaints, let them come in and they shall be heard.

If any man will be essoined, it may be entred as the case *Essoin* shall require, scz.

quia in seruic^o domini regis.
quia est ultra mare.
I. S. essoin est quia non potuit venire propter altitudinem aquar.
quia est de malo lecti. Or
quia ægrotus, vel similia.

There be other manner of essoines which are in plea, the one after summons or attachment, and the other after issue ioined, which are to be entred after this manner.

1. I. S. Qui Summō fuit (vel attach^o fuit) essendi hic, ad hanc Curiam, ad respondend^o T. K. de placito debiti (vel similia) modo essoⁿ est per D. R. &c.

2. I. S. Qui habuit diem vsque ad hanc Curiam, ad exitum junct^o inter T. K. quærent^o & I. W. defend^o modo Essoⁿ est per D. R. &c.

And in like maner the plaintife may be essoined if he will.
And

The Countie Court.

The Bailifes shall be sworn amerciaments (as Bailifes or other Officers) shall bee ^{Ibid.} swozne by the said Iustices of Peace, that they shall take no more money than is forfeited, and contained in the Estreats, sealed with the seales of the said Iustices of Peace vpon the paine aforesaid; the same gatherers to bee convict by examination of the said Iustices of Peace, or one of them, as before is rehearsed: see my Countrey Iustice, tit^r Sherifes.

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I. S. essoin est quia non potuit venire propter altitudinem aquar.

quia est de malo lecti. Or

quia ægrotus, vel similia.

There be other manner of essoines which are in plea, the one after summons or attachment, and the other after issue ioined, which are to be entred after this manner.

1. *I. S.* Qui Summons fuit (vel attach' fuit) essendi hic, ad hanc Curiam, ad respondend' *T. K.* de placito debiti (vel similia) modo essoin est per *D. R. &c.*

2. *I. S.* Qui habuit diem vsque ad hanc Curiam, ad exitum junct' inter *T. K.* querent' & *I. W.* defend' modo Essoin est per *D. R. &c.*

And in like maner the plaintife may be essoined if he will.

And

The Countie Court.

And if the one partie bee effoined at one court, the other partie may be effoined at the next court.

Whosoever will cast any effoine, he must come at the beginning of the court, when proclamation is made, or else he ought not to be receiued. See Statute de Effoinis 12.E.2.

But note that the partie cannot be effoined in these cases following, *ic2.*

If the partie himselfe be seene in court.

If the partie haue an attorney (in the same plee) present in court.

If the partie made default at the last court before.

Or if the partie come in by *Cepi corpus*, or *Distresse*.

Note also that none shall need to sweare to warrant his effoine, *52.H.3.ca.19.*

Proces.

Proces.

Also the like Proces or Precepts as are made out of ^{W.6,} the Hundred Court, or Court Baron, are to be made out of the Countie Court *mutatis mutandis*, viz. a Summons, Attachment, and Distresse infinite, which also is the proces at the common law.

The formes of these Proces are as followeth.

A SUMMONS.

Summons.

PRæceptū est ballivo *ibid.* quod sum fac' C.D. quod sit hic ad *Canteb.* prox. cur ad respond. A.B. in pñito debiti, or detentionis, trespass, vel similia.

Alias.

R.S. armiger vicecomes comitat. prædict. ballivo hundred. de R. salutem. Quia I.S. (ad cosm meum ten' pro comit. prædict.) queritur vers'us I. D. in placito debiti triginta solidorum (vel in placit' transg'f, vel in placito detentionis &c. *sicm le plains est*) Et invenit plegios de prosequendo &c. * Ideo tibi præcipio, qd. sum fac' præf. I.D. qd sit hic ad px. cur ad respond' pñ. I.S. in pñito præd. Et habeas ibi hoc præceptū, & qualiter &c. datum 8. die August. añ regni dñi nostri &c.

An Attachment.

PRæceptum est ballivo ibid. q. attachiat C. D. per omnia bona & cattall sua, q. sit ad px. cur. ad respond. A. B. de placito debiti &c.

Or this attachment may be made more amply as before (almost word for word) vsq. ad not. t. Ideo tibi precipio q. attachias p. I. D. per omnia bona & cattall sua, q. sit hic ad px. cur. &c. vt supra.

Also the Defendant may be attached by pledges &c. See plus hic fol.

A Distringas.

PRæceptū est ballivo ibid. q. distringat E. D. per omnia bona & cattall sua, q. sit ad px. cur. ad respond. A. B. de placito debiti &c. Teste &c.

Alias distring. & plur. distring.

PRæc. est ballivo ibid. sicut al. (vel sicut plur.) tibi præceptum fuit, quod distringas &c. vt supra.

Or these may be made more amply, as before.

A Venire facias Inrator.

PRæceptum est ballivo ibidem, quod venire fac. 12. probos & legales homines de ballivo suo, quod sint hic ad prox. cur. ad triand. exit. junct. inter A. B. quæ & C. D. defend. de p. lito debiti, vel similia.

And if a full Jurie doe not appeare, then as many as make default, and be not essoined, shall bee amerced, and a Decem tales awarded to summon tenne more, as followeth, and the same day given to the first Jurie.

Decem tales.

PRæcept. est ballivo ibid. quod venire fac. decē tales probos et legales homines de balliva sua, quod sint hic ad prox. cur. cum alijs qui sibi ad tunc & ibid. associantur, ad triand. exit. junct. inter A. B. quæ et C. D. defend. de p. lito debiti, vel similia.

At

The Countie Court.

At which day as many as make default, and be not essoined, shall be amerced, and then an Oñio tales shall bee awarded, and after that if need be a Sex tales.

And if there appeare a full Jurie, then both the parties shall haue their challenges lawfull to the Jurors: And if the Jurie find for the plaintife, then they must giue costs of suit and dammages. And in the like maner they shall assesse dammages, if they find for an aduocant, in a repleuin &c.

A Leuare fac'.

Leuare fac'.

PRæceptum est ballivo ibid. quod de bonis & cattallis C.D. leuare fac' 20.s. quos A.B. in hac curia recuperavit versus eum in placito debiti, vel similia, et pro mis. et custagijs suis 12.d. Ita quod denarij illos habeat hic ad prox. cur. ad reddend. præd. A. B. Teste &c.

Alias.

A. B. miles vicecom. com. &c. Quia J. S. ad com. meum (tent. pro com. præd.) recuperavit versus Will. E. 31.s. in placito debiti, et 12.d. pro mis. et custagijs, unde prædictus Will. in eadem curia convictus est, per iudicium cur. Ideo leuare facias secundum consuet. præd. 31.s. in dicta curia adjudicat, et dictos 12.d. pro mis. Et denarios illos habeas ad prox. cur. ad reddend. præfato Roberto pro dampnis præd. Et habeas ibidem hoc præcept. et qualiter &c. datū 24. die April, añ regni dom. Reg. &c. 20.

Cap. ad satisfac'.

Nota que on ne poet auer Capias in Court Baron, ne Execution la per Capias ad satisfac', mes le naturall Execution & Proces la, est attachement de biens &c. per Martin. 3. H. 6. fol. 56.

And although that the sherife shall hold plea of debt upon a Iusticies, yet the Sherife cannot thereupon award a Capias ad satisfac'. See Br. Iusticies 1. et hic postea fol.

Neither may the sherife take the bodie of a man upon a Iusticies. 2. H. 4. Br. Iusticies 4.

And yet the sherifs of Wales upon euery judgement had before them in their Countie, or Hundred Courts, in any plaint vnder 40.s. shall and may (by the stat. of 34. Hen. 8.) award a Capias ad satisfaciend' to arrest the partie condemned; or else a Fieri facias at the libertie of the pursuant or plaintife.

And therefore where custome will beare it, there if the bailife shall returne that he can find no goods of the Defendants, upon the Leuare facias, then the plaintife may haue a Capias ad satisfaciendum, to take the bodie of the defendant, and

P. Wales
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and to lay him in prison untill such tyme as he hath satisfied the pl. (as it seemeth, ramen quære.) The forme of which Capias may then be thus.

A Capias ad satisfac.

W. 152.

PRæcept' est ballivo ibid. quod capiat C. D. et eum in prisona sua, salvo custod' fac' quousq; satisfecerit I. S. tam de xx. s. p debito quos præfatus A. B. recuperavit versùs eum, quam 12. d. pro mis. et custag' suis &c. Teste &c.

Fitz. 85. g.

A Iusticies may be directed to the Sherife, to hold plea in diuers cases, and of diuers matters, and then the writ is not returnable, but the matter shall be tried and determined in the Countie befoze the sherife, and that by an enquest accordyng to the order of the common law. Fitz. 86.

In what cases, or for what matters a Iusticies may be granted.

Iusticies de accompt; for the forme of the Iusticies, or writ of Accompt, which shalbe sued in the countie court befoze the sherife: See Fitz. 117. a. c.

Fitz. 86.

Iusticies de action sur le Case, scz. for breaking downe sea banks &c. or for detaining in a park cattel distrained, where by they are spoiled; or for taking away cattell demised befoze the terme be ended &c.

Iusticies de admeasurement de Dower. Fitz. 148. g. h.

Iusticies de admeasurement de Pasture. Fitz. 125. b. c.

Iusticies de annuitie. Fitz. 152. b. See the forme of the writ.

Fitz. 127. g.

Iusticies de curia claudenda, scz. where a man ought to inclose his ground against his neighbors ground, & will not.

Fitz. 151. b. e.

Iusticies de customes & seruices, scz. where the tenant withholdeth his rents or seruices from his Lord.

Fitz. 119. g. h.

Iusticies de Debs, and this may be either for a Debt of money, or of other goods; and this may be remoued out of the county, into the court of common pleas by a Pone, either by the plaintife or defendant.

Fitz. 138. b.

Iusticies de Detinue, and this plee may be also remoued by a Pone, out of the county, at the suit of the plaintife or defendant: but the defendant must shew cause in his Pone, and so needs not the plaintife.

Iusticies de Dower, vnde nihil habet: See the forme of the writ, Fitz. 148. b. d.

Iusticies de Droit de Gard: See the forme of the writ, Fitz. 139. f.

Iusticies in brieve de droit patent. 39. H. 6. Br. Iustic' 6.

Iusticies

The Countie Court.

Mefne.
Nufans.

Iusticies de *Mefne*. See the forme of the writ, Fitz. 135. n.
Iusticies de *Nufans*. Fitz. 184. b.

Now the writs of *Nufans* which are vicontieles (scz. which belong to the Sherife, or which are triable in the County, or Sherifes Court) appeares by these verses following :

rica ca gultu ges lendum
Fab, fur, porta, domus, vir, gur, mo, murus, ovile,
Et pons, tradantur hæc vicecomitibus.

Plegijs ac-
quiescand.

Iusticies de *Plegijs* acquietandis. See the forme of the writ
Fitz. 137. d.

Quarentine.

Iusticies de *Quarentine*. Fitz. 161. e.

Note that upon this writ the sherife shall presently award proces against the party, to cause him to come &c. & to answer &c. and shall proceed therupon as Justices shall do upon a Commission of *Oyer* and *Terminer* &c.

Quod per-
mittat.

Iusticies de *Quod* permittat. See the forme of the writ.
Fitz. 123. g.

Rationab.
divis.

Iusticies de *Rationabil* divis. Fitz. 128. p. q.

In this the plaintife shall make his plaint befoze the sherife in the nature of a count, & thereupon the sherif shall make his precept to warne the defendant &c. and when hee cometh, the pl shall make his count, and the def. shall answer thereunto in the county; and if the def. cannot deny it &c. then the sherife shall make the partition and division of the lands between them by meers and bounds: but if the def. will plead, and joine the issue, *sur le mere droit*, & luy mitter in *grand assise*, then the pl ought to remoue this &c. or the def. may remoue it upon shewing cause &c. Fitz. 128.

Sefta ad mo-
lendl.

Iusticies de *sefta* ad molendinum. See the forme of the writ, Fitz. 123. a.

Trespas.

Iusticies de *Trespas*: Note that for every manner of trespassse done, a man may have this writ directed to the sherife to determine the matter befoze him in his Countie Court; And by this writ the sherife may heare and determine of the trespass by an enquest according to the order of the common law; and the plaintife may count upon this writ to the damages of xx. l. or more. Fitz. 85. 86.

But note that the Iusticies, is no originall, but onely a Commission to the sherife, to giue him power to hold plee aboue xl. s. in his County Court. Br. Iusticies 1. 3.

And in a Iusticies, although the writ be directed to the Sherife, and be quod Iusticies T. & c. yet the Sherife is not Judge therein, but the suitors are Judges; and a writ of false

3. H. 6. 34.
7. E. 4.

7. E. 4.
Br. Iust. 3.

3.H.6.
Br. Luft 1.

1000 marks

Capias no
gift.

3.H.4.
Br.luft.4.
Faux Im.30

And so the Sherife cannot take the bodie of a man vpon a Iustices, nor vpon the writ de Nativo habendo, for although the writ be Habere facias talem nativum, & fugitivum suum &c. yet this is to no other intēt, but only to giue the Sherif power to hold plee &c. And the proces in a writ de Nativo habendo, is, and alwaies hath been summong, attachment, & distresse.

34.H.6.
Br. Inst. 2.
Fit. Bar. 161

Vic' seer luy
me/me.

2 H. 6. Br. Officer 38.

Attachment.

Pleuremons.

Fitz. 69.
70. 2.
Liber Int
tit Justicier.

Fitz. 70.a. & 119.i.

Nota que si le Replevin soit sue in le countie,

Fitz, 70.

2 Pome.

 Ff

The Countie Court.

de Recordare port date auant que le pleint soit enter in le county, vncore le record est biē remoue, pur c' que amb. courts sōt courts le roy. Fi. 71.d.

Si le pleint soit discontinue in le county, vnc' le pl. ou def. poit remouer Fitz 71.a
ceo pleint in cōmon banke, ou bank le roy per Recordare &c. & serra bone, & il poit counte sur ceo &c. & le court tener plee sur ceo pleint : car si le pleint soit continue in le county, & issne ioine sur c' vnc' riēs serr remoue forsq' le pleint solemēt, & in common bank le pl. counte de novel &c.

Si pleint soit remoue hors del county in banco, ne serra apres remaūd, quia amb. sont courts del roy ; & le cause de remouem't hors del County nest trauesable. Vide Fitz. Cause de remouer plee 17.31.E.3.

Si le vic. remoue le plee hors dascun court per Pone, al suit le pl. ou def. et puis les bailifs, ou officers del court proceed sur le pleint, & dōe judgemēt, & font exec &c. dōq' le def. ou cē vers que indgmēt ou exec' est fait, aūa brief dattachmēt vers les bailifes, ou ceux que isint proceed al indgement &c. de rn' d. al roy cibie del cōtēpt, cōe al party des damages &c. Fi. 119. k.

Don frankte-
nement.

In action de trespas port in le county court, si le def. plead son frankte-
nement, ou auter tiel plee, le court ne doit proceed oufter, mes doit ceaser de tener plee ; & s'il proceed, brieft de faux indgement voet giser.

Br. Court
Bar. 21.

Isint si le def. clame le pl. destre son villain, le court ceaser de tener Ibid.
plee.

Prohibition.

Si home sue auter en le county court, pur charters concernant inheri- Fitz. 47.b.
tance, ou franktenement, prohibition gist.

Si home impleade auter in le county court (sans Iusticies) des detts, Fitz. 46.a.
ou chattels, que amonnt a le somme de 40.s. le party auera prohibition vers le vic. commandant luy que il ne tener plee, & que il dira al party pl. que il suer in le common banke.

Si home doit al auter finke mārks, & le creditor sua seuer al pleints de ceo in le county court vers le dettor, prohibition gist. Fitz. 46.a.

Isint est si home voil suer in le county court, brieft de Comenat, ou de Trespas, al damage de 40.s. ou plus, le party auera prohibition. Ibidem.

Après indge-
ment.

Isint si le executors sue in le county court, pur det de fixe markes, per diuers pleints &c. lou le det est sur vn contract, ou sur vn obligati-
on, ore le defendant poit monstre cel, & pleader al iurisdiction del court, ou il poit auer brieft de prohibition &c. & sil auer indgement in ascun des pleints sue del parcel del ceo det, vncore in le prohibition il poit luy inhibiter de proceed in ceux pleints, que sont pendants, & que il cessa del execution del indgement del residue. Ibidem.

Auxy si home sue in le county vn pleint de 20.li. & ad indgement de reconer ceo in mesme le court, vncore le defendant poit suer vn brieft de prohibition, cōmandant le vic' & les sutors, que ils ne executer cel indge-
ment, coment que ils ad admit le iurisdiction auant. Ibidem.

Après exec.

Isint apres indgemēt done, & executiō agard in le county court, (de det Fitz. 46.a.
de sum de 40.s. &c. ou des damages in trespas amonntans a tiel sum, ou plus) le def. poit auer brieft de prohibic' al vic' que il surceffer de faire
executiō,

execution, Et sil ad distr' le party de faire satisfaction &c. que donq' il releaser cest distresse &c. & que il reuoke ceo que il ad fais in ceo part.

Nota si le vic' &c. ne surcease, sur tiel prohibition deliner a luy, don- que Alias, Pluries, et Attachment, giser vers le vic' &c.

Nota que est rule in le Register, Que si placita de cattallis, vel de- bitis, que summa quadraginta solidor' attingunt vel eam exce- dunt in comitatu (vel in alia curia) sine breve placitentur (quod absit), non fiat inde breve de falso iudicio, nec recordent', nec breve de Execut' Iudicij; exceptis cur' civitatis, & alijs, que se- cundum consuetudin' hujusmodi iurisdic' habent, Fitz. 46. 47.

Fitz. 86. g.

Auxi nota que pur chesc' maner de trespas fait, hōe poet eslier de auer br'e direct al vic' a determin' cest mat' deuant luy in son county; On de Trespasse. suer brieft direct al vic' retornable in bank le roy, ou common bank.

Fitz. 47. a.

Br. Iustic' 5.

Et vnc' le vic' ne poet tener plée in son countie court de trespasse, on auter action, lou loffence serra lay destre vi & armis, et sil fait, le def. poet auer prohibition al vic' command' luy de surcesser &c.

Nota per Littleton, que home poit au' Iusticies de trespasse sans vi & armis, & la le def. ne serra sine pur le trespas 8. E. 4. 15. Br. Iustic' 5. vide Fitz. 85. g. que le brieft de trespasse que est vicountiel, ne dira quare vi & armis, &c. Et vide le forme del brieft ibidem.

Sur faux Iudgement done sur pleint in County ou Hundred Court, et sur brieft de Iusticies in le countie, brieft de faux Iudgement gist, & nēy brieft de error, somment que le Iudgement est de det, ou trespasse ou- ster 40. s. Fitz. 17. 18. et 19.

Nota que pleint ne poet estre fait in countie court, sinon in plein coun- ty, & sedente curia, & non extra curiam; car les suitors sont Iud- ges la, et le vic' est forsq' minister, et le proces serra agard per les suitors 21. E. 4. Br. Pleint. 21. Plaints.

Vncore vic' poit faire repleuin hors del court, aliter serra mischiese de terger le county, Et ceo ad estre use de temps dont memory &c. per tout Anglitterre, per Pigot et Brian ibid.

Mes Withernam ne poet estre nisi in pleine county, Pigot ibid.

Plees deuant le vic' in son county, ne sont de Record.

Auxi nota que tiel entries, pleints, responsiones, barres, et issues, sont destre fait; et mise eins, al county courts, come sont use in le Hundred court, ou court Baron, Mutatis mutandis.

Auxi tous trialls deuant le vic' in son county court, serra per gager del Ley, (sc. per le serement del parties), ou per le verdit de xij. homes, come semble.

If any man will enter any pleints in the county court, they must be entred after this manner.

A. B. querit' versus C. D. de placito debiti (vel de placito de- tentioñ vel de placito captioñ et injuste detentioñ averioñ suo- rum, vel de placito transgressi. vel similia, as the case shall be.)

F f 2

Pleadings

The Countie Court.

de Recordare port date avant que le pleint soit enter in le county, vncore le record est biē remoue, pur c' que amb. courts sōt courts le roy. Fi. 71. d.

Si le pleint soit discontinue in le county, vnc' le pl. ou def. poit remouer Fitz 71. a
ce pleint in cōmon banke, ou bank le roy, per Recordare &c. & serra bone, & il poit counter sur ceo &c. & le court tener plee sur ceo pleint: car si le pleint soit continue in le county, & issue ioine sur c' vnc' riēs serr remoue forsq' le pleint solemēt, & in common bank le pl. counter de novel &c.

Si pleint soit remoue hors del county in banco, ne serra apres remaūd, quia amb. sont courts del roy; & le cause de remouem't hors del County nest traufferable. Vide Fitz. Cause de remouer plee 17. 31. E. 3.

Si le vic. remoue le plee hors dascun court per Pone, al suit le pl. ou def. et puis les bailifs, ou officers del court proceed sur le pleint, & dōe judgemēt, & font exec' &c. dōq' le def. ou cēy vers que iudgmēt ou exec' est fait, aūa brief dattachmēt vers les bailifes, ou ceux que issint proceed al iudgement &c. de rn' d. al roy cibie del cōtēpt, cōe al party des damages &c. Fi. 119. k.

son frankte-
nement.

In action de trespas port in le county court, si le def. plead son frankte-
nement, ou auter tiel plee, le court ne doit proceeder oufter, mes doit ceaser de tener plee; & s'ils proceed, brieft de faux iudgements voet giser.

Br. Court
Bar. 21.

Issint si le def. clame le pl. destre son villein, le court ceaser de tener plee. Ibid.

Prohibition.

Si home sue auter en le county court, pur charters concernant inheri- Fitz. 47. b.
tance, ou franktenement, prohibition gist.

Si home impleade auter in le county court (sans Iusticies) des detts, Fitz. 46. a.
ou chattels, que amonnt a le somme de 40. s. le party auera prohibition vers le vic. commandant luy que il ne tener plee, & que il dira al party pl. que il suer in le common banke.

Si home doit al auter finke marks, & le creditor sua seuer al pleints de ceo in le county court vers le dettor, prohibition gist. Fitz. 46. a.

Issint est si home voil suer in le county court, brieft de Covenant, ou de Trespas, al damage de 40. s. ou plus, le party auera prohibition. Ibidem.

Après iudge-
ment.

Issint si le executors sue in le county court, pur det de fixe marks, per diuers pleints &c. lou le det est sur un contract, ou sur un obligati-
on, ore le defendant poet monstre cel, & pleader al iurisdiction del court, ou il poit auer brieft de prohibition &c. & sil auer iudgement in ascun des pleints sue del parcel del ceo det, vncore in le prohibition il poet luy inhibiter de proceeder in ceux pleints, que sont pendants, & que il cessa del execution del iudgement del residue. Ibidem.

Auxy si home sue in le county un pleint de 20. li. & ad iudgement de reconuer ceo in mesme le court, vncore le defendant poit suer un brieft de prohibition, cōmandant le vic' & les suitors, que ils ne executer cel iudgement, coment que ils ad admit le iurisdiction auant. Ibidem.

Après exec'.

Issint apres iudgemēt done, & executiō agard in le county court, (de det Fitz. 46. a.
de sum de 40. s. &c. ou des damages in trespas amonntans a tiel sum, ou plus) le def. poet auer brieft de prohibic' al vic' que il surceffer de faire execution,

execution, Et sil ad dist^{re} le party de faire satisfaction &c. que donq^{ue} il releaser cest distresse &c. & que il reuoke ceo que il ad fais in ceo part.

Nota si le vic' &c. ne surcease, sur tiel prohibition deliner a luy, don- que Alias, Pluries, et Attachment, giser vers le vic' &c.

Nota que est rule in le Register, Que si placita de cattallis, vel de- bitis, que summa quadraginta solidor' attingunt vel eam exce- dunt in comitatu (vel in alia curia) sine breve placitentur (quod absit), non fiat inde breve de falso iudicio, nec recordent', nec breve de Execut' Iudicij; exceptis cur' civitatis, & alijs, que se- cundum consuetudinē, huiusmodi iurisdic^{ti} habent, Fitz. 46. 47.

Fitz. 86. g.

Auxi nota que pur chesc' maner de trespas fait, hōe poet eslier de auer br'e direct al vic' a determin' cest matt' deuant luy in son county; Ou de Trespasse. suer brieve direct al vic' retournable in bank le roy, ou common bank.

Fitz. 47. a.
Br. Iustic' 5.

Et vnc' le vic' ne poet tener plee in son countie court de trespasse, ou auter action, lou loffence serra lay destre vi & armis, et sil fait, le des. poet auer prohibition al vic' command' luy de surcesser &c.

Nota per Littleton, que home poit au' Iusticies de trespasse sans vi & armis, & la le des. ne serra sine pur le trespas 8. E. 4. 15. Br. Iustic' 5. vide Fitz. 85. g. que le brieve de trespasse que est vicountiel, ne dira quare vi & armis, &c. Et vide le forme del brieve ibidem.

Sur faux Iudgement done sur pleint in County ou Hundred Court, et sur brieve de Iusticies in le countie, brieve de faux Iudgement gist, & nēy brieve de error, somment que le Iudgement est de des, ou trespasse ou- ster 40. s. Fitz. 17. 18. et 19.

Nota que pleint ne poet estre fait in countie court, sinon in plein coun- ty, & sedente curia, & non extra curiam; car les suitors sont Iud- ges la, et le vic' est forsq^{ue} minister, et le proces serra agard per les suitors 21. E. 4. Br. Pleint. 21. Plaints.

Vncore vic' poit faire repleuin hors del court, aliter serra mischiese de terger le county, Et ceo adestre vse de temps dont memory &c. per tout Anglitterre, per Pigot et Brian ibid.

Mes Withernam ne poet estre nisi in pleine county, Pigot ibid.

Plees deuant le vic' in son county, ne sont de Record.

Auxi nota que tiel entries, pleints, responsiones, barres, et issues, sont destre fait, et mise eins, al county courts, come sont vse in le Hundred court, ou court Baron, Mutatis mutandis.

Auxi tous trialls deuant le vic' in son county court, serra per gager del Ley, (sc. per le serement del parties), ou per le verdit de xij. homes, come semble.

If any man will enter any pleints in the county court, they must be entred after this manner.

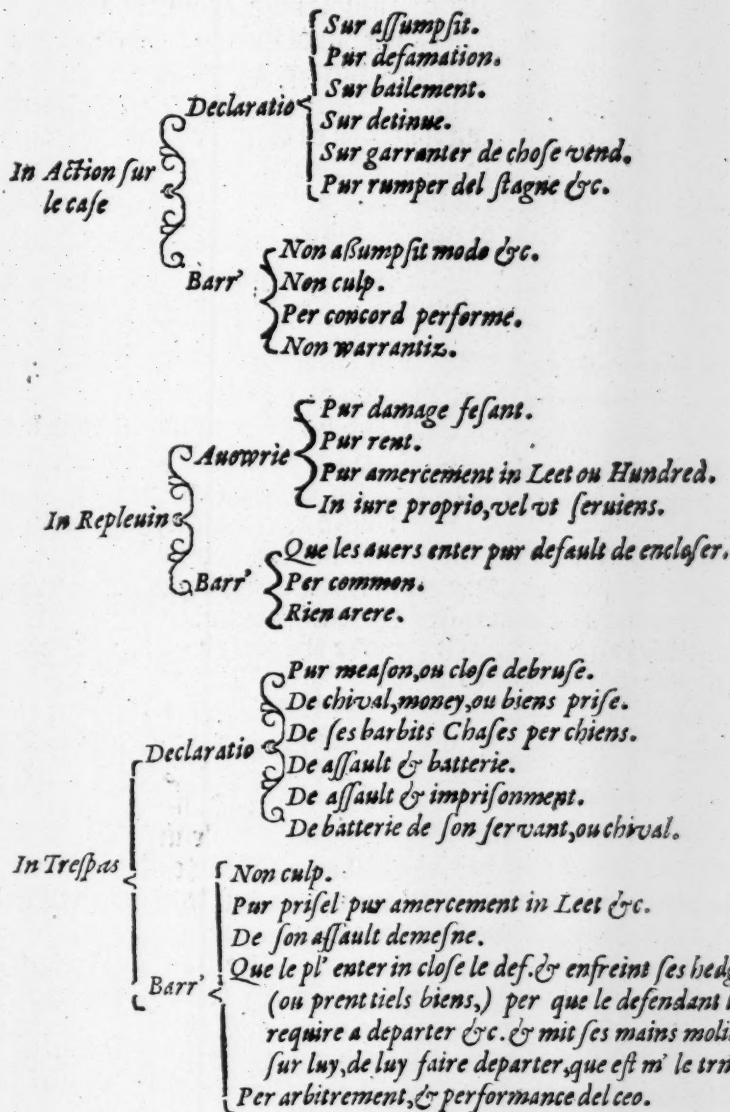
A. B. querit' versus C. D. de placito debiti (vel de placito de- tention vel de placito caption et injuste detention averio^r suo- rum, vel de placito transgressi. vel familia, as the case shall be.)

The Countie Court.

Pleadings &c. in Debt.

		<i>Sur accompt.</i> <i>Sur obligation, ou autre specialtie.</i> <i>Sur retainer pur wages.</i> <i>Sur mutunus.</i> <i>Sur bailement per auters maines.</i> <i>Per executors, & vers executors.</i> <i>Per administrators, & vers admin.</i>	
Declaratio			
In Det.	Barr	<i>Per paiement</i> <i>Prist a payer.</i> <i>Per acquittance.</i> <i>Per release.</i> <i>Obligation fait pur le det.</i> <i>Per concord.</i> <i>Per arbitrement, que il ad performe.</i> <i>Per nul arbitrement fait devant tiel iour.</i> <i>Non est factum.</i> <i>Per minas ou dures.</i>	<i>Rien luy doit, & issue sur ceo.</i> <i>Ryen luy doit per ley gager.</i> <i>Deins age.</i> <i>Que el suit covert al temps.</i> <i>Que le plaintife ad baron.</i> <i>Ne unques admin.</i> <i>Plene admin.</i> <i>Confession.</i> <i>Imparlans.</i> <i>Non sum informatus.</i> <i>Nihil dicit.</i>
		vel	
		Replication.	
		Rejoinder.	
		Demurrer.	

		Declaratio	
In Detinue	Barr	<i>Per non detinet.</i> <i>Non detinet per ley gager.</i> <i>Per done</i> <i>Per release.</i> <i>Port in court prist a paier.</i> <i>Que le plaintife deliuer ceo in gage al defendans pur 20.li. &c. & que nad pay le 20.li.</i> <i>Que fait baile per le plaintife, & A.</i>	



For the better and more ample forme of all these, and the like pleadings &c. See the booke of Entries.

The sherife and his officers and clerkes, for the entring of pleints, proces, plees, and judgements in their Countie Courts, shall take the ordinarie and vsuall fees, and if they take any more, it is extoztion.

53 H. 3. c. 21
P. Repl. r.

The sherife vpon complaint made to him (that the beasts of any man bee taken and wrongfully withholden) may

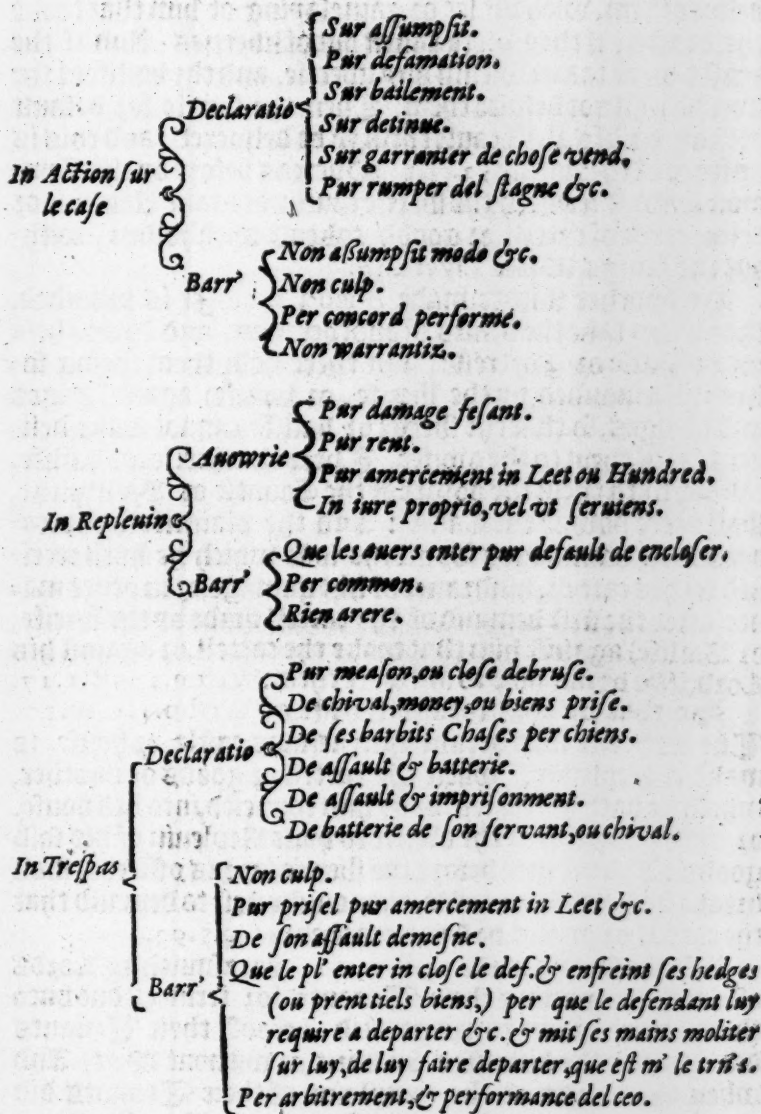
Replevin;

The Countie Court.

Pleadings &c. in Debt.

		<i>Sur accempt.</i> <i>Sur obligation, ou autre specialtie.</i> <i>Sur retainer pur wages.</i> <i>Sur mutunus.</i> <i>Sur bailement per auters maines.</i> <i>Per executors, & vers executors.</i> <i>Per administrators, & vers admin.</i>	
	Declaratio		
In Det.	Barr	Per paiement	Rien luy doit, & issue sur ceo.
		Prist a payer.	Ryen luy doit per ley gager.
		Per acquittance.	Deins age.
		Per release.	Que el fait coners al temps.
		Obligation fait pur le det.	Que le plaintife ad baron.
		Per concord.	Ne unques admin.
		Per arbitrement, que il ad performe.	Plene admin.
		Per nul arbitrement fait devant tiel iour.	Confession.
		Non est factum.	Imparlans.
		Per minas ou dares.	Non sum informatus.
			Nihil dicit.
		Replication.	
		Reioinder.	
		Demurrer.	

		Declaratio	
In Detinuer	Barr	Per non detinet.	
		Non detinet per ley gager.	
		Per done	
		Per release.	
		Port in court prist a paier.	
		Que le plaintife deliuer ceo in gage al defendant pur 20.li. &c. & que nad pay le 20.li.	
		Que fait baile per le plaintife. & A.	



For the better and more ample forme of all theſe, and the like pleadings &c. See the booke of Entries.

The ſherife and his officers and clerkes, for the entring of plaints, proces, pleges, and judgements in theſe Countie Courts, ſhall take the ordinarie and vſuall fees, and if they take any more, it is extortion.

53 H.3.c.21
P.Repl.1.

The ſherife vpon complaint made to him (that the beaſts of any man bee taken and wrongfully withholden) may

Repleuin;

The Countie Court.

Deliver them, without let or gaineſaying of him that tooke the beaſts, if they were taken out of liberties; And if the beaſts were taken within any libertie, and the bailife of the libertie will not deliver them, Then the ſherife for default of thoſe bailifs, ſhall cauſe them to be delivered: and this is by force of the ſtatute 52.H.3. Whereas befoze by the Common Law, it ſeemeth the ſherife could not make Replevie or deliverance of cattell, or goods, taken & withholden, without the Kings writ. Dyer 246.

By another ſtatute made Anno 3.E.1. It is provided, 3.E.1.c.17.
P.Dist.4. that if any take the beaſts of another man, and drive them into a Caſtle or Fortreſſe, and there hold them (being ſolemnly demanded by the ſherife, or bailife) againſt gages and pledges, ſo that the ſherife or bailife cannot make deliverance of them to the owner, There the ſherife, or bailife, taking with them the power of the Countie or Bailiwick, ſhall beate downe the Caſtle: And the plaintife ſhall recover double damages for all the loſſe which he hath received by his cattell, hindrance of his gainage, or in other manner (after the firſt demand of the cattell made by the ſherife, or Bailife) againſt him that tooke the cattell, or againſt his Lord, if he be not able to anſwere them: Weſtm. 1. 3.E.1.17.

So that by this former ſtatute of Weſtm. 1. Cap. 17. The Sherife may breake open a mans caſtle, or houſe, to make a Replevin, when the cattell or goods of another, which he hath diſtreined, be by him conveyed into his houſe, or Caſtle, to prevent the owner to have Replevin of his ſaid goods: And yet here befoze the ſherife (or his officers) ſhall breake ſuch houſe, or caſtle, they ought firſt to demand that the cattell, or goods, be delivered them; Co. 5. 93.

Alſo the ſtatute made 13.E.1.c.2. Forasmuch as Lords of fees, diſtreining their Tenants for ſervices due unto them, were many times grieved, becauſe their Tenants did Replevie the diſtreſſes (by writ, or without writ) And when the Lords at the complaint of their Tenants did come (by Attachment) into the County (or other Court &c.) and did avow the taking of the diſtreſſe to be good and lawful, by reaſon that the Tenants did diſavow to hold ought of him which tooke the diſtreſſe, and avowed it, He that diſtreyned was Amerced, and the Tenants went quite (and puniſhment cannot bee there aſſigned for ſuch diſavowing &c.) It was therefore ordeined that where ſuch Lords cannot obtaine Juſtice in the Counties, (and ſuch Courts) againſt their Tenants, as ſoone as they ſhall be attached at
the

the suite of their Tenants, a writ (called a Recordare) shall be graunted to them to remoue the plea, before the Iustices, (before whom, and none other where, Justice may be administered, vnto such Lords) And the cause shalbe put in the writ, because such a man distreyned in his fee for his seruices and customes to him due &c. P. Repl. 2. Recordare.

Also by the same statute, it is further ordeined, That because it chanceth sometimes that the Tenant after that hee hath Repleuied his beasts, doth sell them away, or drive them farre of, whereby retorne cannot be made vnto the Lord that distreined, if it be adjudged: It is thereby therefore provided, That sherifes, and bailifes, from thence forth should not onely receiue of the plaintife, pledges for the pursuing of the suite before they make deliuerance of the distresses or beasts taken: But also pledges for the retorne of the beasts, if retorne be awarded; And if any take pledges otherwise, hee shall answer for the price of the beasts: and the Lord that distreyned shall haue his recouery by writ, that he shall restore or deliuer vnto him so many beasts or cattell; And if the bailife be not able to restore or satisfie his superiour (scz. the high sherife) shall restore or pay it: (P. Repl. 3.) 13. E. 1. c. 2. Plegij de pro-
seq.
De Retor.
habend.

Westm. 2. 2. Note that as soone as Retorne of the cattell is awarded to him which did distrein the same, the sherif shalbe commanded by writ, to make retorne of the cattell, to the partie which tooke the distresse. Stat. 13. E. 1. c. 2.

Après Retorne del beasts &c. agard, & retorne de eux fait, si le partie Repleuie eux arere &c. Vide plus le stat. de Westm. 2. c. 2.

1. & 2. Ph. &
Mc 12.

Also by another statute made in the times of King Phillip and Queene Mary, for the more speedy deliuerie of cattell, taken by way of distresse, it is further enacted, That euery sherife, shall depute and appoint, foure deputies (at the least) in his County, to make Repleuies, and deliuerance of such distresses, in such manner and forme as the sherife, may and ought to doe. Deputies.

So then (although by the Common law the sherife could not make Repleuies, or deliuerance of any distresse, without the Kings writ, as is shewed before Dyer 246. Yet) now by force of these former stat. the high sherife himself, the vndersherife, or any other of the sherifs deputies, (appointed as aforesaid) vpon complaint made to them, or any of them, by any man that hath his beasts or other goods taken, and wrongfully withholden, And vpon pledges found &c. may without any writ to them directed, (in all places) make Repleuies,

The Countie Court.

Sans breve. pleuies, and may deliuer the distresse (scz. the beasts, or goods so taken and withholden:) And also the sherife may determine the same in the Countie Court.

But then the sherife &c. is to giue day vnto the parties, Britton. f. 4.
vntill the next Countie Court: At which day the plaintife may be essoined; But if hee make default, then the defendant may demaund Judgement of the Non suite, and shall haue retorne of the distresse; And the plaintife, and his pledges shall be in misericordia.

But the defendant may not be essoined at the first day; For if he make default, then the distresse shall be awarded to the plaintife. And the defendant in misericordia.

And if both the plaintife and defendant shall appeare at the first day (either in person, or by attorney,) then the plaintife ought to count or put in his declaration against the defendant.

Per breve. Or else the partie may haue a writ (out of the Chancerie directed) to the sherife; whereupon the sherife, or his bailife knowne, and swozne, (after sureties or pledges found, &c.) ought to goe to the pound, &c. and to deliuer the beasts, or goods, impounded, to the partie.

But when a man sueth a Repleyn, by writ to the sherife, hee ought presently to enter his plaint before the sherife: Fitz. 78. a.

And if the sherife, or his bailife be disturbed in the execution of this writ, they may leuie a power, &c. and may take such disturbers, and impryson them.

But if the beasts, or goods, bee in an house, so as the sherife or bailife cannot come by them; or be driuen, or carried into another Countie, &c. then may the sherife take of the goods, or beasts, of the deforceor (to the double value) in Withernam: see hic. Britton. 54.

But if the partie that tooke the goods, do claime proprietie in them, then the power of the sherife, or his bailife ceaseth, so as they may not Repleuie or deliuer them, whether it were by plaint, or by writ; but the other partie ought to sue his writ De proprietate probanda. Fitz. 77. c.

Note that the seruant may claime proprietie for his Master, and one defendant may claime proprietie, but an estranger cannot claime proprietie; but that the sherife ought to make deliuerance notwithstanding the strangers claime. Fitz. propri. prob. l. 2. 5.

Note also that vpon proprietie found for the plaintife, the sherife shall make deliuerance, and shall also attach the defendant to answer as well the King, as the partie: Fitz. propriet.

priet' pband. 3. et Register f. 83. accord. Et p. Co. 8. 60. a. le de-
fendant que clame propertie fauxment, &c. ferra fine & imprison mes
ceoserra: per les Iustices in Banco, & nemy per le vicount.

If a man sue a Repleuin in the countie, by plaint, without writ, & the sberife maketh his precept to the bailife to make Repleuie, and the bailife retogneth to the sberife at his next countie, that he cannot haue the view of the cattell to make deliuerance, &c. or that they be esloigned. Then the sberife at the same Countie Court ought to enquire thereof by an enquest (of office.) And if this be found by enquest, that the cattell be esloigned, (or conueied away, &c. then the sberif in the same Countie Court may award, (ex officio) a precept, in the nature of a Capias in Withernam, directed to his bailife, to take the beasts of the defendant, &c. or else the plaintife may haue a writ out of the Chancerie to this purpose.

But whether the beasts of the defendant, being taken in Withernam, shall be deliuered to the plaintife, or that the sberife shall keepe them, &c. may be a question: It appeareth by the words of the writ (of Withernam out of the Common place) that the sberife shall keepe them, untill the sberife can make repleuie and deliuerance to the pt of his cattell, & so is the booke 2. H. 4. Fitz. Wither. 3. that the sberife shall keepe them: And yet by the vse of the Kings Bench it seemeth they shall be deliuered to the plaintife: Fitz. 73. f. et 74. a. b. d.

And therefore where the sberife in his countie court shall award a Withernam, quere, if there the sberife may not either keepe the cattell himselfe, or deliuer them to the plaintife (to keepe untill, &c.) at his pleasure; And whether the sberife or plaintife shall haue the keeping of them, it seemeth reasonable that the defendant shall also pay for the keeping of them before he hath his cattell againe.

The sberife vpon complaint made to him of cattell taken, &c. may command his bailife by word of mouth, to make Repleuie of them; and it is as good, as if it were by a precept in writing; for perhaps the sberife, nor his bailife, haue any thing about the wherewithall to write, &c. F. 69. e.

Si home sua Repl' de potts et panns, Withernam ferra des biens al value: 31. E. 3. Fitz. Wither. 9.

Vicount in pais agard Withernam a prender al value, et nemy al Number: Vide Fitz. Wither. 7. et 10.

Vicount bien agard Withernam sur plaint a vani lay in pais, Es ceo sur Elongata Retorne per son Bayliffe; Mes coruient primes de enquirer per enquest, si le Retorn del balise soit voier, &c. Fitz. Wither. 2. et 10.

Fitz. 74. p.

Le proces sur cel Withernam, est Alias, et Plur. et sic infinite.
Fitz. 74. p. The

The Countie Court.

The forme of a Replevin.

Replevin.

A. B. miles vicecomes com̄ p̄d ballivo hundred' de H. nec non Canteb.
Io. S. ballivo meo hac vice et eorum vtrique, conjunct' et di-
 visim salutem, Quia *W. P.* invenit mihi sufficient' securit' tam de
 clam̄ suo prosequendo, quam de averijs suis (*viz.* vna spadone,
 tribus equis sive vna bove &c.) que *Io. C.* cepit et injuste detinet,
 vt dicitur, retor', si retor' inde adiudicetur, Ideo ex parte dñi re-
 gis vobis et vtriq; vestr' cōjunct' et divis. mado, q repl' et deliber'
 fac' p̄fat' *W. P.* aver' sua p̄d' (sive bove p̄d') Et q ponat' seu, &c. p
 vad', et salvos pleg' p̄fat' *Io. C.* Ita q sit ad p̄xim, com̄ meū apud
 castrū Canteb' tenēd', ad respondend' p̄fat' *W. P.* de p̄lito capt' et
 injuste deten', aver', suor' p̄d', Et qualir', &c. Mihi ad p̄xim com̄
 meum certificer' seu, &c. sub periculo incombēt', dat' sub sigillo
 officij mei, Ultimo dei Iulij añ regni dñi n̄ri *Iacobi* die grac' An-
 glia Scotiæ Franc' et Hiberniæ regis fidei defensor' &c. *viz.* An-
 glia Frac' et Hiberniæ vicefimo et Scotiæ quinquagesimo sexto.
 p me *A. B.* Milit' Vic'.

**And if this Replevin be granted by a Deputie, to the she-
 rife, then he must set his name to the Replevin, Thus;**

p me *I. A.* vnum deputat' dicti
 Vic' secund' formā statuti.

**And if the first Repl' be not executed, then the sherife or his
 deputie, may grant an Alias Replevin, & so a Pluries Replevin,
 vel causam mihi significes; & after a toties quoties, if need be,**

An Alias Replevin.

Alias Repl.

A. B. miles vicecom' com̄ p̄d. ballivo hundred' de R. Necnon Canteb.
I. S. ballivo meo hac vice, &c. Quia *W. P.* invenit mihi suffici-
 ent' securitatē tam de clamore suo psequendo, Quā, &c. (vt su-
 pra) Ideo ex parte dñi regis vobis, et vtrique vestrū conjunctim
 et divisim mando, sicut Alias vobis mand' averia p̄d. (sive bo-
 vem prædict.) eidem *W. P.* sine dilatione replegiare fac', seu
 vnus vestrum repleg' fac' vel causam mihi significet', vel vnus ve-
 strum signif. Quare mandata mea vobis inde directā exequi no-
 luisti aut non potuisti. Et q ponat' seu vnus vestrum ponat per
 vadios et salvos pleg. præfat. *Io. C.* Ita q, &c. (vt supra.)

Plur' Repl.

**And if the bailife doe not deliuer the plaintife his cattell
 vpon this Alias Replevin, nor shew sufficient cause why hee
 did not, then the partie may haue a Pluries Replevin, which
 must be made Verbatim, as the Alias Replevin was made,
 only changing this word Alias into Pluries.**

And

And note that upon all these Replevins, there must bee a bond of fortie pound at the least, taken of him to whom the Replevin is graunted, for his appearance at the next Court after, and for the prosecution of his suit, and to make returne of the cattell, if returne be adiudged.

The forme of which Bond and Condition must be as followeth.

NOverint vniuersi per presentes me Will^m P. de C. in com^o C. *The Obliga^o*
gen^{er} teneri et firmiter obligari A. B. milit^r viccom^o, com^o p^{re} sion.
in Decem libris bonæ et legalis monete Angliæ solvend^o eidem
vic^o aut suo certo attornat^o, executori, vel admin^o suis. Ad quam
quidem solutionē bene et fideliter faciend^o, obligo me hared^o
executori et admin^o meos firmiter per presentes, Sigillo meo si-
gillar^o dat^o &c. (as all other Bonds are.)

The condition of this present obligation is such, that if *The Condition,*
the aboue bounden W. P. do appeare at the next Countie
Court to be holden at the castle of Cambridge, and then and
there doe prosecute his action with effect against I. C. for
wrongfull taking & detaining of his cattell, viz. of one gel-
ding and thre horses, as it is alleaged, and doe also make
returne thereof, if returne thereof shall be adiudged by law, &
also do saue & keepe harmeles, and indemnified, the aboue
named sberife, his vnder sberife and bailifes, for, touching
and concerning the deliuerie of the said cattell. That then
this present obligation to bee void and of none effect, or else
the same to stand, remain, and continue in full force, strength
and vertue.

And if in this case the taker of the cattell doe iustifie the
taking, as in his freehold, then the Countie Court can pro-
ceed no further therein; but the cause must be remoued from
thence by the Kings writ (out of the Chancerie) called a Re-
cordare facias loquælam, directed to the sberif, returnable the
next terme following, either into the Kings Bench, or into
the court of Common Plees, which the partie will: and then
this writ of Recordare ought to be openly read & allowed
in the said Court, to the end that notice may be given thereof
to the plaintiff in the replevin, that he may appeare at the day
of the returne thereof, and declare against the taker of his
cattell, or else the taker will haue a Retorno habend^o averio^r,
to the disadvantage of the plaintife.

Now

The Countie Court.

*Authoritie
del Court.*

Now concerning the authoritie of this court, and of the Sherife, &c. therein.

If a man bee convicted before the Sherife (in his countie court) in a writ of Recaptio, it seemeth the Sherife may amerce him, & also may award damages to the party, but the Sherife can impose no fine in this court upon any offender, for that no court can impose any fine, but such courts as are courts of Record, whereas the countie court is no court of Record: Co. 8. 41. et 60. et 11. 43. Fitz. 73. d.

Co. 8. 41. a.
et 60. b.

And (it seemeth) that if any contempt or disturbance to the court bee made before the Sherife, or his steward, in the countie court, they may amerce such offenders, for such contempt or disturbance, & that such amercement needeth not to be affirmed: for whereas the statutes of Mag' Charta, c. 14. and of Westm 1. c. 6. will, quod nemo amercietur nisi secundum quantitatem delicti, whiche cannot be knowne but by affirming, yet it seemeth that the statutes, and this affirming are to bee understood for amercements set or imposed for offences committed or done out of court, and not of contempts or misdemeanors done or committed in court, before the Judge or steward there, who having knowledge thereof, & of the manner and qualitie of the offence, are the moze meet to impose, take, and assest such amercements for such offence: and so such amercement to be in the nature of a fine imposed (by the Sherife or steward) upon the offenders: see 10. H. 6. fol. 7. Br. Amercement 50. et Co. 8. 41.

Co. 8. 41. c.
11. 43.

And for an amercement in the countie court, the Sherife may distraine throughout all the countie: 2. H. 4. Br. Dist. 13.

Imprison.

But the Sherife may not imprison one, nor arrest or take the body upon the writ de Nativo habendo, &c. (Br. Faux Imprison. 30.) Nor in any other suit, nor for any contempt or offence done in the countie court, as it seemeth.

Recog.

The Sherife in his countie court may take a recognisance to pay another a certaine summe of money at a certaine day, & if it be not paid at the day, the Comtee may have a writ out of the Chancerie to the Sherife to make execution thereupon: (Et in tels Cases semble que le Countee peut vendre les biens le partie, pur payer le Comtee: Fitz. 133. b.)

Fitz. 133. a.
133.

And this is where there is a plea of debt depending in the countie court before the Sherife, betweene two, either of the parties may there acknowledge a recognisance (before the Sherife) to the other partie, of any summe of money (as it seemeth) and that whither the plea bee there depending by writ, or without writ, as Master Fitz. held,

Also

Also if a man will come in to the Countie Court before the Sherife, and there in Court will acknowledge to owe or pay a certaine summe of money to another person at a certaine day &c. when there is no plaint or action depending there betweene the parties, it seemes by the opinion of *W. Fitz.* that such recognisance is good, if it be vnder the sum of fortie shillings. *Fitz. 133. a.* And the partie may haue the kings writ directed to the Sherife to make execution of such a recognisance. *Ibid.*

Le forme del dis briefs al viconts pur faire execution. Vide Fitz. 133. b.

Fitz. 133. b. Mes il semble que per le dis briefs, si le recognisor ne voile recognuistre le det ayere deuant le vicount quant il vient a lay de faire execution &c. mes dire que il ad ceo pay &c. que donque le vicount ne poet faire execution de ceo.

K Rights for the Parliament, Coroners, & Verderers, & their election, is alwayes made by the Kings writ, and in the open and full Countie Court. *Knights del Parliament, esley al Countie.*

And these must all be chosen by the freeholders of the same Countie.

See hic antea fol.

And the Knights for the Parliament are to be chosen betweene the houres of eight and eleuen of the clocke in the fore noone, and *Sedente Curia.*

The names of such freeholders as are at the election of Coroners, and Verderers, ought to be set downe in the County Court booke for to certifie such their election. *Coronors & Verderers.*

And yet the Coroners, their electio also may be by voyces, or by holding by hands &c. (as the Knights of the Parliament, wherof see hic antea fol.) and then their names, or number cannot be certainly known nor set downe. *Pl. 126. a.*

Also the Sherife is to minister vnto the Coroners, & Verderers, their seuerall oathes for the due execution of their offices.

When the Coroner is chosen, the high Sherife of the same Countie, or his vnder Sherife must giue him his oathes, as followeth. *The Coronors oathes.*

First the Sherife shall giue the Coroner his oath to the Supremacie.

The forme of which oath. See hic antea fol.

Then the Sherife must giue the Coroner his oath concerning his office, as followeth.

The Sherifes Officers.

The forme of the Coroners Oath, for the due

execution of his office.

Ye shall sweare yet say you well and truly shall serue our
Soveraigne Lord the Kings Maestie, and his liege people,
in the Office of a Coroner: And as one of his Maesties Co-
roners of this Countie of Cambridge: And therein you shall
diligently and truly doe and accomplish all and euerie thing
and things appertaining to your Office, after the best of
your cunning, wit, and power, both for the Kings profit and
the good of the inhabitants within the said Countie, taking
such fees as you ought to take by the Lawes and Statutes of
this Realme, and not otherwise: So helpe you God, and
the holy contents of this Booke; *And so let him kisse*
the Booke, to affirme his Oath.

The formes of the writs for the choosing of the Co-
roners, and Verderers: See in the Register Fol. 177. &
Fitz. 163. 164.

The forme of the Verderers Oath: See.

Now concerning the Sherifes Officers, *scz.*

His Vndersherife, Clerkes, Deputies, Bailifes
of Hundreds, and Gaolers.

I will heere first let downe what securitie is
commonly taken by the high Sherife from
his said Officers: And then certaine gene-
rall observations or rules concerning them
all; And after I will treat more particu-
larly of euerie of them by themselves.

First, it is meete and safe for the High Sherife, to take
good securitie from his Vndersherife, and other officers, be-
fore he trust them with their Offices: And for this, com-
monly the High Sherife taketh Bonds and Couenants of
the Vndersherife and his friends; As also of his Bailifes,
and Gaoler.

*The forme of an Indenture betweene the High Sherife,
and his Vndersherife.*

W.9.10.

Quere, If
this be not
contrary to
the Sherifes
oath. Artic.
12. and con-
trary to the
stat. see his
fol.

THis Indenture made, &c. betweene R. O. of in the
Countie of Cambridge Esquier on the one partie: and H. R.
of G. in the said Countie gent. of the other partie, witnesseth,
that whereas the said R. O. being by the Kings most excellent
Maiestie appointed to bee High Sherife of the said Countie of
Cambridge for this yeere to come, hath vpon speciall affiance,
confidence, and trust, that hee hath and beareth in and towards
the said R. H. promised and graunted to the said R. H. the vse of
the exercising of the Office of his Vndersherife of the said
Countie, together withall fees, fines, forfeitures of bonds, pro-
fits, commodities, aduantages, casualties, allowances, liber-
ties, franchises, courts, tornes, leets, perquisites of courts, and
other emoluments, certaine and vncertaine whatsoeter, to the
Office of Sherifewicke, or Vndersherifewicke, belonging, or in
any wise appertaining, that any Sherife or Vndersherife of the
said Countie, hath heeretofore iustly and lawfully claimed or
had, To haue and enioy during, and by all such time as hee the
said R. O. shall bee, remaine, and continue High Sherife of the
said Countie of C. this appointment or election not discharged.
In consideration whereof, the said R. H. couenanteth, granteth,
and agreeth, and faithfully promisseth for him, his heires, execu-
tors and administrators, that he the said H. R. his heires, execu-
tors or administrators shall and will discharge, or otherwise suf-
ficiently saue and keepe harmelesse, as well the said R. O. his
heires, executors, and administrators, as also his and their, and
euerie or their goods, chattells, lands, tenements, and heredi-
taments of, and from all, and all manner of troubles, vexations,
suits, actions, informations, complaints, contempts, fines, for-
feitures, amerciaments, penalties, paines, summe and summes of
money payable, or leuiable to, or for the Kings Maiestie, or any
other person or persons whatsoever, for any matter or thing to
be done, in or about the said Office. And of and from all, and
all manner of losses, hindrances, & damages, that shall or may be
lawfully mooued, stirred, procured, commenced, prohibired,
prosecuted, happen or fall, or lawfull asked, demanded, or leui-
ed vpon the said R. O. his heires, executors or administrators,
or of, or vpon his or their, or any of their goods, cattels, lands, te-
nemets or hereditamets, for or by reason of the said office of she-
rife, either by nonsuing, or vnlawfull returning, slow returning,
or misreturning of any precepts, writs, warrants or processe to
G g 2 the

Les Profits.

*De sauer
harmelesse
generalment.*

The Sherifes Officers.

Extortion. the high Sherife directed, or to bee directed, or for by cause or meanes of any excessiue or vnlawfull extortion or exacti-
on, or taking of any money, or other gaine, or commodi-
tie for the seruing or not seruing of any such Writs, War-
rants, Precepts, or Processe, or for or by reason of any mis-
demeaner, misusing, or misgouernement, negligence, lacke of
skill, or of ignorance that shall bee in the said *H. R.* in, or
about the doing, exercising, or executing of the said Office
of Vndersherife. *And* the said *H. R.* for himselfe, his heires,
Executors and Administratours by these presents doth fur-
ther couenant and graunt to, and with the said *R. O.* his
Heires, Executours and Administratours, in like manner to
discharge, or otherwise to saue harmelesse and indemnified
as well the said *R. O.* his Heires, Executours, and Admini-
Escapes. stratours, as also all their goods and cattells, lands, tenements,
and hereditaments, of, and from all manner of escapes, both
wilfull and negligent, of Traytors, Felons, and all other pri-
soners committed, or to bee committed to his or their safe
keeping, or charge, in breach of prison, and of and from all
fines, forfeitures, amerciements, summes of money, and pe-
nalties that hee or they, or any of them shall or may incurre,
beare, pay, or sustaine, for any escape or breach of prison,
during all the time of his continuance in the said Office of
High Sherife of his appointment. *And* moreover the said *H.*
A doner At- *R.* shall giue attendance conuenient and requisite, vpon the
tendance. Kings Courts at Westminster, vpon the Iudges of Assises and
Iustices of Peace, and other Commissioners and Officers with-
in the said Countie, vpon whom the said *R. O.* or the said *H.*
R. in respect of the said Office of Sherifewicke ought by the
Lawes of this Realme to attend. *And* furthermore shall with-
in one yeare next after the discharge of the said *R. O.* from his
said Office, iustly and truely make a perfect account in the
De faire son Kings Eschequer, or else where, of all the summes of money,
Account. receipts, and other things wherewith the said *R. O.* shall or may
bee charged as Sherife of the said Countie of Cambridge, and
shall within the said time or yeare deliuer vnto the said *R. O.*
his Heires, &c. a sufficient acquittance or *quietus est*: *And* it
is further agreed vpon by the said parties to these presents, That
Lowr bailifes euery one of the Bailifes of hundreds, and also other the officers
vnder the Sherife, shall enter into sufficient bonds by obligation
that they and euery of them shall truely and diligently deale in,
exercise and execute their Offices during the time aforesaid.
And if any shall refuse to enter bond, or shall misdemeane him-
selfe

selfe in his or their said Office, that then it shall be lawfull to, and for the said *H. R.* in his discretion to place another meete for that Office, in the roome of such person that shall refuse to enter bond, or shall misdemeane himselfe, as is aforesaid. In witnesse whereof, &c.

Another forme of Indenture betweene the High Sherife, and his Vndersherife.

W^{est} Pl⁷⁵.

THis Indenture made, &c. betweene *F. S.* Sherife of the Countie of Cambridge Esquire of the one partie. And *A. G.* of &c. on the other partie witnesseth that it is couenanted, &c. that is to say, The said *F.* doth by these presents ordaine, constitute, depute and make the said *A. G.* to bee his Vndersherife in the said Countie of *C.* And to haue, occupie, and enioy the said Office of Vndersherife there to the said *A. G.* during all such time as the said *F.* shall continue and bee in authoritie of the Office of the said Sherife of the said Countie of *C.* by vertue and authoritie of our said Soueraigne Lord the Kings Maiesties Letters Patents of the Office of Sherif there to him directed, bearing date, &c. And also that the said *F.* doth by these presents graunt, &c. to the said *A.* that hee shall and may take and haue during the said terme, all manner of farmes, rents, fees, rewards, and profits lawfully to the said Office of Sherife, or Office of Vndersherife, or for seruing, executing, or returning of any manner of Writs, Warrants, Precepts, or Proceffe in the said Countie of Cam' belonging or appertaining. And also all Felons goods, and Escheates that shall happen to bee lawfully due to the said Sherife during the said time, within the said Countie of Cam'. And the said *F.* doth by these presents grant, assigne, and depure to the said *A.* the lawfull ordering, custodie, and gouernement, of all and singular manner of Gaoles, prisons, and of the prisoners now, or heereafter to bee therein, to bee lawfully and duely ordered, kept, and demeaned, by the said *A.* or his deputie or deputies, seruant or seruants, during the said terme that the said *F.* shall haue the said Office, or the custodie, order, or gouernement of the said Gaoles, prisons, and prisoners, by vertue and authoritie of the said Office of Sherife, and Letters Pattents aforesaid. In consideration whereof, the said *A.* doth by these presents graunt, &c. to and with the said *F.* that hee the saide *A.* and his Assignes, shall at all and singular time and

Les Profits;

Le Gaole.

The Sherifes Officers.

*Desauer
harmelesse.*

*Desaier as-
compt.*

times from time to time after the date of these presents, con-
ferue, discharge, exonerate, saue harmelesse, and acquite the
said F. his heires, executors, administrators, and assignes, and
everie of them, (and the sureties of them and euerie of them)
of, for, and from all and all manner of forfeitures, paiments, and
fines, paines, penalties, amerciaments, charges, losses, issues, da-
mages, incumbrances and demaunds wharsoeuer in any wise,
in any Court or elsewhere, to bee set, assessed, paid, or sustai-
ned, suffered, or had to our said Soueraigne Lord the Kings
Maiestie, his heires and successours, or to any other person or
persons in any wise, for, or vpon any escapes, executions, or re-
turnes of Writs, Commissions, Priue Seales, Proclamations,
Processe, Precepts, Seales, and Warrants, by any wayes, man-
ner, or meanes to, or vpon the said F. for, vpon, or vnder the
said Office of Sherife in any wise directed, named, or had for
any Act, matter, default, office, or thing to be committed, done,
neglected, or suffered, perpetrated, or had by the said A. or any
of his said seruants, ministers, deputies, or assignes, during the
time that the said A. shall continue in his said authoritie or
office, or any of them: *And* also the said A. in considera-
tion aforesaid, doth by these presents grant, &c. that hee the
said A. shall duely, pay, enter into, make perfect, finish, ac-
quite and discharge, for, and in the behalfe of the said F. in the
Kings Court now commonly called the Eschequer, and else-
where, all and singular, and all manner of profits, rents, debts,
duties, and demands, accounts, costs, charges, fees, recognifan-
ces, and bonds, for, and vpon the said Sherife, or any his sureties,
or by reason or meanes of the said Office of Sherife, of, and in
the said Countie of Cam' or of any officer or minister of the
said Sherifes Office in any wise due or demaundable, during
the time that the said F. shall haue the said Office of the said
Sherife of the said Countie of C. or to bee accountable there-
of: *And* that the said A. shall duely, lawfully, and in conue-
nient time, by himselfe or his assignes, bring vnto the said F.
his heires, executors, or administrators, his and their lawfull
acquittance and discharge for the accounts and duties of the
said Sherifes Office of the said Countie of Cam' for the time
that the said F. shall haue bene Sherife there by the said Let-
ters Patents. *Also* the said A. G. doth by these presents grant
to and with the said F. that the said A. shall well, and worship-
fully, make, prouide, sustaine, and maintaine at all and singu-
lar times (during the time that the said F. shall haue the said
Office of Sherife of the said Countie of C. by force or ver-
tue

tue of the said Letters Patents) conuenient and compotent
meat, drinke, lodging, food, sustenance, and entertainment
of the Iustices of Assises, Iustices of Gaole Deliuerie, and *De enterroyne
les Iudges,
&c.*
the Clerke of the Assises, and for all and euerie of their
Clerkes, ministers, and seruants, and for the horses and
moiles of them and euerie of them, and for all other at-
tendants at, and about the said Iustices of Assise or Gaole
Deliuerie, at or within the said Countie of Cam' during the
time and times of their Assises, at and by the oversight and
appointment of the said F. or such other person or persons
as the said F. shall thereunto nominate and assigne. *Provi-
ded* alwayes, and it is graunted and agreed by these pre-
sents betweene the said F. and A. that the said A. or any *Par Returns
les Iurors,
ou le pri-
uie del vic.*
other person in his behalfe shall not make or returne any other
Pannell, Iurie, or Enquest, for, in, or vpon any Writ of *ve-
nire facias*, or of any other Proceffe, pursued, directed, or
had, during the time of the said Sherife of the Countie of
Cam' out of any of the Kings Maiesties Courts, common-
ly called the Chauncerie, the Kings Bench, Common Place,
or Eschequer, vnlesse the same Pannell, Iurie, or Enquest
shall bee confirmed with the hand of the said F. or of some
other partie that hee shall nominate or appoint. *Nor* that
hee the said A. nor any other person in his behalfe shall in
any wise doe, or cause to bee done, without the speciall *Et executar
proces &c.*
licence of the said F. first obtained and plainely had done
or appointed, any Act, matter, or any thing vpon any Writ,
Commission, Action, Presentment, Iudgement, Indictment,
Proceffe, or suit that in any wise, manner, or meanes shall
bee for or against any of the Earles of, &c. or any of them,
or, for, or against any other person or persons, that is, or
heereafter shall bee knowne or declared to the said A. by
the said F. to bee his friend. *And* it is also provided and *Lour Bai-
lifes.*
agreed by these presents betweene the said F. S. and A. G.
that the said F. shall and may make, ordaine, constitute,
and appoint from time to time, during the time of his Of-
fice by the said Letters Patents, such persons which during
that time shall haue, occupie, and enioy the two Baliwickes,
and Offices of Bailifes, of, and in the Hundreds of R. and
C. and either of them, with the appurtenances in the Coun-
tie of Cam' aforesaid, and that the same persons shall haue,
take, occupie, and enioy the said Bailiwicks, and either of
them, together with all and singular manner of profits, com-
modities, and aduantages, with the appurtenances appendant
to

The Sherifes Officers.

*De Account
al vis.*

to the same Bailiwicks, or either of them in any wise concerning growing, belonging, or during the time ouer and besides that shall be to the Kings Maiestie; any thing in these presents contained to the contrarie in any wise notwithstanding. And the said *F.* doth moreouer grant by these presents to the said *A.* that the said *F.* and his assignes shal in due and conuenient time, as shortly and conueniently as may bee after the time of the said Office ended, account and declare to the said *A. G.* or his assignes, at the said Mannor of, &c. the true value and rent, of all and singular, rents, reuenues, duties, and forfeitures, due to bee payed and then leuied or leuiable to the Kings Maiesties vfe or behalte within the Countie of *C.* for, vpon, in, or by the said Office of Sherife there, during the time that the said *F.* was, as is aforesaid Sherife there, and so much of the rents, reuenues, duties, and forfeitures that the said *F.* or his assignes shall pay, or cause to bee payed then to the said *A.* as the same *F.* or any other person to his vfe then hath receiued, and all the residue of the said rents, reuenues, duties, and forfeitures there, which conueniently shall bee leuied, the same shall cause to bee payed to the said *A.* or his assignes so shortly and speedily as may bee, after that time they shall bee conueniently leuied and gathered there: And the said *A.* doth by these presents covenant and graunt that the said *F.* his Executors, and Assignes shall within fortie dayes next after the said accounts for the said Office of the Sherife of the Countie of *C.* finished or determined, pay, or cause to bee payed well and truly to the said *F. S.* his Executors or Assignes, all manner of allowances, profits, commodities, and advantages that in any wise shall bee admitted, deducted, or allowed in the said account or accounts, or by any part thereof in the said Eschequer, for the diet of any the Iustices of Assises, or Gaole, or any of their Clerkes seruants or attendants in the said Countie, or for any summons of *præcipe*, or of any greene Waxe, or of any such like matter or thing in the said Shire of *C.* And also the said *A.* doth by these presents graunt to the said *F.* that hee the said *A.* at least in one day in euerie of one and twentie dayes, during the time that hee shall bee Vndersherife, as is aforesaid, and personally bee in, or neere vnto the said Countie of *C.* shall come thence vnto the said *F.* and on that one day vtter and declare the state of the said Countie of *Cam* and the affaires concerning the said Office, with the appurtenances thereof. And that also the said *A.* with all his Officers

*De attend le
vic chescun
3. semaines.*

*Posse Commi-
tatus.*

The Sherifes Officers.

173

Officers and Ministers, and power of the said Countie, shall duely and diligently attend to the said Office, if any warre, rebellion, or other notable matter or occasion, during the time of the said Office shall arise or bee in the said Countie or thereabouts: And also that the said A. shall well and diligently, honestly and iustly occupie, serue, and execute the said Office of Vndersherife of the said Countie, and honestly behaue himselfe in all points, during all the time that the said F. shall continue, and bee high Sherife of the said Countie of C. by vertue of the said Letters Patents, and nothing done by himselfe, or any other person or persons in any wise concerning the said Office of Sherife or vndersherife of the said Countie of C. which shall bee to the dishonour of the said F. And also that the alterations of matters, articles, and things in these presents in any wise mentioned or contained, may, and shall be reformed and had at any time from time to time, by the learned counsell of the said F. for the better and more perfect discharge and saving harmless of the said F. his Heires and Executors by these presents, by, and in all things to obey, performe, and fulfill. In witness whereof, &c.

*Bene se gere
re.*

The Bonds are commonly taken of the Undersheriffe, and his Sureties, for the performance of these former Couenants: And they are ordinarily as all other Bonds are for the performance of Couenants: And they are in this manner following, or the like.

Bonds.

A Condition to performe Couenants.

THe Condition, &c. That if the within bounden Th. F. doe well and truly hold, performe, obserue, fulfill, and keepe all and singular Couenants, Graunts, Articles, Paiments, Promises, and agreements, which on the part and behalfe of the said T. F. his Heires, Executors, &c. or any of them are to bee holden, performed, obserued, fulfilled, or kept, contained, written, declared or specified in one paire of Indentures, bearing date, &c. made betweene the said T. F. of the one partie And the within named T. T. of the other partie, according

The Sherifes Officers.

According to the tenure, purport, true intent and meaning of the said Indentures, That then, &c.

A Condition to passe an account, and to procure a discharge for a Sherife.

THe Condition of, &c. that if the aboue bounden *T. F.* his heires, executors, and administrators, doe make a true and perfect account, of, and for the aboue named *T. T.* his heires and executors, in the Eschequer of our Soueraigne Lord the King, and the heires and successors of the said King, of for and vpon all issues, charges, summe and summes, which bee or shall bee charged or demaunded of or vpon the said *T.* as late Sherife of the said Countie, an doe get and procure a sufficient *quiesm est* thereof, for the said *T. T.* his heires and executours. And moreouer doe well and truely discharge saue and keepe harnesse the said *T. T.* his heires &c. against our said Soueraigne Lord his heires and successors, and all other person and persons of for and concerning the said Office of Sherife, and all the receiptes and charges thereof, That then &c. W. Plaz.

A Condition for a Bailife to enter into, to the Sherife.

THe Condition, &c. That whereas the aboue named Sir *B. T.* at the speciall instance and earnest intreatie of the aboue bounden *J. P.* hath authorised and appointed the said *J. P.* to bee one of his bailifes within the Countie of *C.* abouesaid, and in more particular hath committed to his charge the Bailiwicke of the hundred of *M.* and *B.* if therefore the said *J. P.* and all such persons, &c. for and about the executing of such things as shall be given him in charge to do and execute as Bailife of the hundred doe iustly, &c. execute his said office according to the effect and intents of such Warrants and Precepts as shall bee directed vnto him, and come to his hands from the aboue named Sherife, or from his Vndersherife to bee executed, and shall and doe vpon the view of euerie Warrant vpon meane proces from the said Sherife, take sufficient bond with two sureties for the apparance of the defendant arrested according to the Statute in that case made and provided. And W. 12.

And shall safely conuey and deliuer euerie such bond vncancelled vnto the said Sherife or his Vndersherife; before such time as the Processe whereupon the said Warrant is made is returnable. And also at all times, and from time to time, during the continuance of the said Sherife in his Office of Sherife of the said Countie, bee readie and attendant both vpon the said Sherife, and vpon his Vndersherife, as well at euerie Assises and Sessions, as also at euerie Countie Court to bee holden, &c. then and there to execute his said Office as appertaineth; And also shall well and truely pay, or cause to bee payed to the said Sherife or his Vndersherife, at the feasts of Easter, and Saint *Michael* the Archangell now next comming after the date of these presents, all and euerie such summe and summes of money as hath beene accustomed yearly to bee payed to the Sherife of the said Countie for the Kings Maiestie out of the said hundreds vpon the account of euerie Bailie of the said hundreds, commonly called, Sherifes Torne money: And do in like manner before the said Feast of Saint *Michael*, collect and gather of the inhabitants within the said hundreds, all summes of money due to his Maiestie, vpon the Summons and Schedules of the greene Waxe, a sufficient Warrant being in conuenient time deliuered vnto him, to that end and purpose, and doe accordingly pay the same to the said Sherife, or to his Vndersherife, within one moneth next after hee hath gathered and collected the same, without couin or further delay.

*Another Condition to exercise a
Bailiwick.*

W. Pl 227.

THE Condition, &c. That if the within bounden *I. A.* shall well and truely exercise and occupie the Office of the Bailiwick of the hundred of Ch. vnder the within named *E. T.* being Sherife of the said Countie of Cambridge, and bee readie and attendant to the said Sherife and his deputie, at all times when hee shall bee required in executing his said Office of Sherifewicke, and discharge, and saue harmelesse the said Sherife against our Soueraigne, &c. and all other persons for executing of all manner of Processe, Precepts, Warrants, and commaundements, to bee directed, executed,

The Sherifes Officers.

*Issues, &c.
del hundred.*

ted and done by the said I. and of all prisoners as shall bee in his custodie: And well and truly content and pay to the same Sherife, his Executors or Assignes, all the issues, reuenues, and profits of the said Hundred, whereof the certainties amount to the summe of foure pounds, by the confession of the said Bailife, to bee paid duely at the feast of Easter, &c. And also leuie, content, and pay to the said Sherife, all such greene waxe, pipe siluer, and issues, as the said Sherife shall bee charged withall within the said Hundred, and as shall be estreated out to the said Bailife to gather, to bee paid to the said Sherife afore the said feast of, &c. That then, &c.

*A Condition for a Gaoler to enter into for the
safe keeping of his prisoners.*

The Condition, &c. That whereas the within named Sir H. W. at the speciall instance and request of the within bounden W. W. hath constituted and appointed the said W. W. to bee his keeper of all such prisoners as shall bee arrested or attached by any manner of writ, warrant, or precept made, or to bee made, by, or in the name of the said Sir H. W. or by, or in the name of I. W. his Undersherife, If therefore the said W. W. his deputie or deputies, assignee or assignees, or any of them shall and doe well and safely keepe all such prisoners as shall be committed to him or them, or any of them, and therein shall saue and keepe harmelesse and indemnified the said Sherife, his heires, executors, and administrators, at all and euerie time and times heereafter, of, and from all, and all manner of escapes of all manner of prisoners that shall bee committed to the custodie and safe keeping of the said W. W. or left vnder the custody or charge of any of his deputies or assignes: And of and from all, and all manner of iudgements, executions, fines, charges, troubles, and incumbrances whatsoever, which shall or may heereafter grow or happen to bee taxed, imposed, estreated, or leuied vpon, of, or against the said Sherife, as Sherife of the Countie aforesaid, for, and by reason of any such escape or escapes as aforesaid: And also if the said W. W. his Deputie or Assignee shall not discharge or set at libertie out of his or their custodie and safe keeping,
any

any prisoner or prisoners which now are, or that hereafter shall or may be by the said Sherife or by his Undersherife or Deputie, or by any of their Bailifes, taken, committed, deliuered, or left, in the custodie of the said W. W. his Deputie or Seruant, without the speciall warrant in writing vnder the hand and seale of the Officer of the said Sherife in that behalfe first had and obtained, that then &c.

27. El. c. 12.
P. Sherifes
32. 33.

Every Undersherife before he intermeddle with the vse or exercise of the said office, and all and every Bailife of franchise, Deputie, and Clerke of euery Sherife, and Undersherife, and all and every Bailife of hundred, and euerie other person and persons which shall haue authoritie, or take vpon him to impannell or retorne any Enquest, Iurie, or Tales, or to intermeddle with the execution of Proces, in or out of any Court of Record, before hee or they intermeddle with execution thereof, shall receiue and take two corporall oaths vpon the holie Euangelist, The one for and concerning the kings supremacie, in such manner as is expressed by the statutes made 1. Eliz. cap. 1. & 5. Eliz. cap. 1.

Lo Seremēt

The other oath, for and concerning the true exercising of their office, the forme whereof is as followeth,

I Henry Sl. shall not vse or exercise the office of Vnderherife, (Bailife, Deputie, or Clerke, or other such words conuenient for the office, or place in which the partie which taketh the oath is to be exercised in) corruptly during the time that I shall remaine therein, Neither shall or will accept, receiue, or take by any colour, meanes, or deuise whatsoeuer, or consent to the taking of any manner of fee, or reward of any person or persons, for the impannelling or returning of any Enquest, Iurie, or Tales, in any Court of Record, for the King, or betwixt party and partie, aboue two shillings, or the value thereof, or such fees as are allowed and appointed for the same by the Lawes and Statuts of this realme, But will according to my power truely and indifferently with conuenient speed impannell all Iurors, and retorne all such Writ or Writs, touching the same, as shall appertaine to bee done by my duetie or office, during the time that I shall remaine in the said office, So helpe me God.

*Lo Seremēt
concernant
lofficē.*

27. El. c. 12.

These oaths are (by the said Undersherife, Bailifes, and other Officers) to bee taken before the Iustices of Assise, or one of them of the same circuite, or before the

H h

Custos

The Sherifes Officers.

Custos Rotulorum, or two Justices of the Peace (one of them being of the Quorum) of the same countie whereof the said vndersherife, bailife, or other officer shall be.

If any of the said persons limited to take the Oath aforesaid, doe take vpon him to impannell, or returne any Enquest, Jurie, or Tales, or to intermeddle with the execution of Process, not hauing before taken the oathes aforesaid, euerie such person shall forfeit fortie pounds, the one moitie to the King, the other moitie to him that will sue for the same.

If any vndersherife, or other person here aboue mentioned in this Act, shall doe or commit any act or acts contrarie to the oathes aforesaid, or either of them, or contrarie to the true intent and meaning of this Act, euery such person so offending shall forfeit for euery such offence to the party or parties grieved, his or their treble damages.

All the generall forfeitures before mentioned shall or may be recovered in any of the kings courts of record by action of debt, bill, plaint, or information, in which suit no wager of law, essoine, or protection shall be allowed.

Also the Judges of assise, and Justices of peace in their open sessions, may heare and determine the offences aforesaid, vpon presentment, information, or indictment, & vpon conviction of the offender may award executio for to leuy the forfeitures by Fieri facias, Attachit, Capias, or Exigent.

Also the head officer of the place if it be a towne corporat, wherein such bailife, or other vnder officer shall be, may take the said oathes of such officers, before they shall or may exercise their said offices.

Also by the statute made 7. Jac. regis cap. 6. euerie officer or minister of justice (within which words the vndersherife, bailife, sherifes clerke, and deputies seeme to bee comprehended) is to take the oath of obedience or allegiance, if they been of the age of 18. yeares or aboue, and that it be lawfully tendered to them.

Bailifes and other the sherifes officers shall be swozne by the Justices of peace, that they shall gather no more of the hire amercements than is forfeited, and contained in their estreats sealed by the said Justices. See hic antea tit. Countie Court fol.

No vndersherife, Sherifes Clerke, Sherifes Receiuer, nor Sherifes Bailife shall bee Atturney in any of the Kings Courts during the time that hee is in any such office with any Sherife; And the Sherife is bound to haue

Oath of allegiance.

Per collector
le faire amercements.

Ne serra
Atturney.

27. El. 12.

27. El. 12.

27. El. 12.

27. El. 12.

27. El. 12.

7. Jac. 6.

11. H. 7. c. 15

1. H. 5. c. 4.

haue a care hereof, and to pzeuent the same, as well by the statute, as by his oath.

42.Ed.3.c.9
31.H.6.ca.8

No Undersherife, nor Sherifes Clerke shall abide or tar- *Not aboue*
rie in his office aboue one yeare (except the Undersherife, *one yeare.*
and Officers within London &c. See infra) vpon paine
to forfeit two hundred pounds yearely, as long as such
person shall occupie such office contrarie to the effect of the
said statute; & euerie man which will may sue for the same.
See hic antea fol.

1.H.5.c.4.

Also euerie pardon made for such offence shall bee void;
besides the high Sherifes Oath seemeth to bind him from
hauiing such an Undersherife. The mischief of such offi- *The mischief*
cers continuing long in their office, or interchanging out
of one of these offices into another, is obserued (in the
Preamble of another Statute made primo Hen.5. cap.4.)
to bee that the Kings liege people durst not pursue and
complaine of the extortions, and oppressions done to them
by the Sherifes Officers (that is to say by Undersherifs,
Sherifes Clerkes, Bailifes, and Receiuers) by reason
thereof; and therefore it was by that Statute ordained,
That Sherifes Bailifes should not bee in any such office
by the space of thre yeares next following: But quere *Bailifes ne*
for the vse hereof; for at this day in most places Sherifes *ferra deins*
Bailifes doe continue in their said offices from yeare to *3. ans.*
yeare, for diuers yeares together: And also Undersherifes,
and Sherifes Clerkes in many places also doe continue in
their said offices many yeares together, interchanging
from the one into the other; By reason of which continuall
being, and continuing in the said offices, the Undershe-
rifes, Sherifes Clerkes, and Bailifes, grow to cum-
ning in their seuerall places; as that they are able to de-
ceiue, and may well be feared that many of them do deceiue
both the King, their high Sherife, and countrie.

23.H.6.ca.8
6.H.8.ca.18

And yet the Undersherife, and all other officers with-
in the Citie of London, as also the Undersherife, and all
other officers of Sherifes, within the Shire or Countie of
the towne of Bristow, may continue and occupie their said
offices from yeare to yeare, without any danger or forfei-
ture, notwithstanding the former Statutes of 42.E.3.9.
and 23.H.6.8.

23.H.6.ca.8

Also such counties in which any persons were inheri-
table to the office of Sherife at the time of the making of
the said statute of 23.H.6.(viz.25.Febꝛ, anno domini 1444.)
And all letters patents befoze that time made to them of

The Sherifes Officers.

the office of Sherife, vnder Sherife, and Sherifes clerke, are excepted out of the said statutes.

*Vic amerce
pur default
ses officers.*

Note that the act or deed of the vnder Sherife, or his deputie, in the name of the Sherife, shall charge the Sherife; and for their act the Sherife himselfe shall be amerced and none other. 8.H.4.20. Accordant. See hicautea fo. 69. 70.

5.E.4.2.
Br. Officer
24. & 33.

And for their bailifes, it is parcell of the Sherifes oath to take no bailife but such as hee will answere for. And so for the gaolers or keepers of the common gaole and prison of the countie, the Sherifes must put in such gaolers or keepers for whom they will answere; for if there be an escape of a felon suffered by the gaoler, the Sherife may be indicted of felony for the same: And if an escape shall be suffered by the gaoler, or other officer, of a prisoner who is in vpon an execution, the Sherife shall bee charged for the whole debt.

14.E.3.c.10
Co 4.34.

Lam. v.v.5.
& West.M.1

The Vnder Sherife.

The Vnder Sherife in auncient time was called Seneschallus vicecomitis, and in the Statute of Westminster 2. cap. 39. is first called Vnder Sherife, and in the Statute of 11.H.7.ca.15. he is called Vnder Sherife, or the shire clerk. Co.9.49.

These Vnder Sherifes haue at this day to them committed by the high Sherife the whole, or most part of the exercising and executing of the office of the high Sherife, and may bee called the Sherifes generall deputie. And accordingly by the booke 20. Hen. 7. the Vnder Sherife is said to bee but the high Sherifes deputie or bailife, and one that vseth and occupieth the place or office in the right of the high Sherife.

20.H.7.fo.
12.b.

If it shall come in issue whether hee that made the array be Vnder Sherife or not, this shall be tried by the countie and not by examination of the officer, and the array impanelled and returned by the Vnder Sherife in the name of the Sherife shall bind the Sherife.

8.H.4 fo.20
Br. Officer
33.

Their Deputies.

*In conrtis al
Westm.*

Every Sherife shall yearly make a Deputie of record in euery of the kings courts of his Chauncerie, the Kings Bench, the Common Place, and in the Exchequer before that

23 H.6.c.10

that they shall returne any writs to receiue all manner of writs and warrantis to bee deliuered them. See hic antea fol.

^{1. Ed. 6. c. 10}
^{1. Ed. 6. c. 16} **Euerie** Sherife of the twelue counties in Wales, and of the counties of Lancaster, Chester, and the citie of Chester, shall haue a sufficient Deputie in the Kings Bench, and Common Place, to returne all writs directed to such Sherife.

^{31. El. c. 9.} **The** Bishop of Durham, and during the vacation of the said Bishopricke, the Chauncelloz of the said Countie Palatine for the time being, shall haue one sufficient deputie, at the least, in the said courts of the Kings Bench and common Place, to receiue all writs of Proclamation directed to such Bishop or Chauncelloz.

^{23. H. 6. c. 10.}
^{1. E. 6. ca. 10}
^{1. Ed. 6. c. 16.}
^{31. El. 9.} **Euerie** Sherife, as also the Bishop or Chauncellour of Durham making default herein, shall loose to the party indamaged treble dammages, and besides shall forfeit forty pound, the one halfe to the King, and the other moiety to him that will sue for the same.

^{1. & 2. Ph. & Ma. cap. 12} **Euerie** Sherife of any Shire (being no Citie, nor Towne made Shire) at his first Countie day, or within two moneths next after hee hath receiued his patent of his office of Sherifewicke, shall depute, appoint, and proclaime in the Shire Towne within his Bailiwicke, foure deputies at the least, dwelling not aboue twelue miles one distant from another (within the Countie where he is Sherife) upon paine that euerie Sherife for euerie moneth that hee shall lacke such deputie or deputies shall forfeit for euerie such offence five pounds.

^{1. & 2. Ph. & Ma. cap. 12.} **Euery** of the said deputies so appointed, and proclaimed, may in the Sherifs name make Repleuies, and deliuerance of distresses, in such forme and manner as the Sherife may and ought to do.

^{21. H. 7. f. 37} **The** Sherife may make his Undersherife, Bailife, and deputies without any deed or writing, by Conesby, Brudnell, and Tremaille.

Where the Sherife cannot make a deputie: See hic.

Their Bailifes of Hundreds.

^{14. E. 3. ca. 9.} **S**herifes shall appoint such bailifes for whom they will answer. Vide hic.

And so shall those Lords which haue hundreds and wapentakes in fee.

The Sherifes Officers.

No Sherifes Bailife shalbe Atturney in any the Kings courts during the time he is in such office. *Vide hic.*

The Sherifes bailifes are to take the oathes, and to bee sworn to the Suppanacie, and for the exercising of their office. *See hic.* 27. Eli. c. 13.

Sherifes clerkes nor bailifes being one yere shall not be in any such office by the space of three yeres after or next ensuing (except the bailifes of those Sherifewicks) quere for the vse hereof at this day. 1. H. 3. c. 4.

The Sherife shall haue in his countie but one bailif errant onely: See the stat. of 14. Ed. 3. 2. 14. E. 3. c. 9.

Bailifes of hundzeds shall be credible persons, and shall haue sufficient lands in the same shire tohereof to answer the king and his people, in case that any man shall complain against them, and so that they shall not need to vse extortion. 9. Ed. 2. Lincoln. & 2. Ed. 3. c. 4. 4. Ed. 3. c. 9. 5. Ed. 3. c. 4. & 14. Ed. 3. ca. 9.

If the Sherife shall chuse any man to be his bailife of any hundzed or wapentake, who hath not sufficient lands in the same countie (according to the statutes of Westm. 2 of 4. & 5. Ed. 3.) a writt shall be sent vnto the Sherife, commanding him to discharge and remoue such bailife, and to chuse a new bailife in the others roome; and hereupon any man may haue an Alias, Pluries, and an attachment against the Sherife, if he shall not do according as he was commanded by such writt: The forme of which writt you may see in Firz. Na. Br. 164. & Register fo. 178. So as vpon such a writt the Sherife may remoue his bailifes of hundzeds which haue not lands or tenements sufficient within his countie. Register
178.
Firz. 164. b.

*Counties and
Hundreds let
to ferme.*

It seemeth that in ancient times, all the counties in England were assessed to a certaine ferme (as were let by the king to euery Sherife at a certaine ferme) and then all the hundzeds and wapentaks in the Sherifs hands were again by them letten, and were also rated to their ferme, which was an occasion of great oppression; wherupon it was first ordained, that the bailiwicks of hundzeds should be leased and bailed by the Sherife for a reasonable rent, so that the bailife need not to vse extortion vpon the people by reason of too outrageous ferme: and after by the statute made 4. E. 3. ca. 15. it was ordained that Sherifes should let their hundzeds for the old ferme (and not aboue) to their bailifes; and by another statute made 14. E. 3. it was shortly after ordained that Sherifes should keepe their hundzeds in their owne hands * See the
profits
thereof.

9 E. 3.
Stat de vic
4. E. 3. 15.

14. E. 3. ca. 9.

hands or else should let them upon the old rent: But sithence sherifes (by the statutes made 23. H. 6. ca. 10. & 5. & 6. Ed. 6. cap. 16. as also by their oathes) are restrained from letting to farme any of their countie, or any of their bailiwicks, hundredes or wapentakes in any maner whatsoever.

9. E. 2.

No bailife of any hundred shall lease his office to any other in farme or otherwise, stat. de vic.

The execution of all writs which come to the Sherife shall be done by the Hundredors; sc. by the bailifes of hundredes, and such as are knowne and swozne in the full countie, and not by others; if it bee not by the open default or notozious disturbance of the Hundredors, sc. vnlesse the bailifes of hundredes will not, or cannot execute them, And then execution shall be done by other persons meete and swozne, see the statute 9. Ed. 2. de vicecomitibus.

Swozne.

13. E. 1. 37.

No distresse shall bee taken, but by a bailife swozne and known; And if any other shall distraine they shall peeld damages to the party grieved, & also be punished to the king.

And so by the statute 27. Eliz. cap. 12. No bailife of any hundred, nor other person, shall take upon them to execute any proces &c. before they be swozne, see hic antea. fol.

And yet the common experience and practise at this day is, that speciall bailifes, or other persons (being neither swozne nor knowne officers) doe execute such writs; And such speciall bailifes are often mentioned in our booke, as in 8. Ed. 4. 14. 2. H. 7. 37. Co. 9. 69. Br. *Monfrance des faits* 117 And they seeme to bee the more allowed, for that they many times may and do execute the kings proces, when such bailifs as are knowne, cannot, in regard that such as are in det doe usually fle from them &c.

Bailifes of hundredes shall attend upon the Just. of Assises, Justices of gaole deliuerie, and Justices of P. in euerie of their courts and sessions; see the statutes 27. H. 8. 24. et 34. H. 8. 26.

See more concerning bailifes of hundredes hic antea tit. Countie Court.

2. E. 3 cap. 4.

Sherifes, and bailifes of fee, shall cause their countie, and bailiwicks to be kept, by such as haue lands therein.

Bailifes of fee, are officers of fee within their iurisdiction or precinct; And for the execution of proces, there the sherife shall not writs or send his Wrecept, to these bailifes as to a bailife of a franchise, but as to the bailife of a gildable; and the sherife shall retorne his answer, as if the sherife himselfe had serued the proces, 27. Ass. Br. Proces 98.

Bailifs of Fee.

All

Bailifes of Franchises.

*Bailifes of
Franchises.*

All bailifes of franchises and liberties, befoze they intermeddle with the execution of their office, shall take two cor-
porall oathes, the one concerning the supremacy, the other
for the true exercising of their office, see *hic antea*.

Low sermēt

A bailife of a franchise or libertie is an officer by him
selfe, and hath not to doe with the sherrife, 21. H. 7. fol. 23. a.

Post bailer.

Bailifes of liberties, may baile such manner of persons
being in their custodie, as sherrifes may; And they may take
the like obligations for the apparance of such persons by
them to be bailed.

*Ne serua at-
turney.*

No steward, bailife, nor minister of lordes of franchises
which haue retorne of writs, shall be attorney in any plea,
within the same franchise or bailiwick wherof he is or
shall be minister or officer.

Low fees.

Stewards and bailifes of franchises, and their deputies
and clerkes, may keepe and enioy their said offices for so
long time as the same is or shall be given vnto them.

Low forf.

Bailifes of liberties shall take such fees, as the statutes
haue set downe for the sherrifes and their officers; which see
hic postea.

All other statutes made befoze the 4. Februarij An^o 27. H.
8. for or concerning sherrifes, or their vnder sherrifes, bailifes
or other ministers for making or returning any Juries, ser-
uing of any proces, taking of fees, for extortions, or for a-
ny other thing concerning their offices), And all paines &
penalties in euerie such statute contained shall be in force a-
gainst, and extend to, all stewards bailifes, and other mini-
sters & officers of liberties and franchises, hauing returne
of writs and executions thereof, in like maner as they ex-
tend to sherrifes, vnder sherrifes &c. As if the said stewards,
and bailifes of liberties &c. had beene particularly named
in such stat. sauing that the said stewards, bailifes of fran-
chises, their deputies or clerkes, may occupy their offices a-
boue one yeare, viz. for so long time as they be given to them.

Fines and amerciaments for insufficient returnes (of
writs, and other proces) made by stewards or bailifes of
liberties, shall bee set vpon the heads of such stewards, or
bailifes, and not vpon the sherrifes.

The king shall haue all maner of fines, issues, amercia-
ments, and forfeitures, that shall be forfeit by any stewards
bailifes or other minister or officer of any libertie, for non
execution or misexecution of any writ, warrant, or proces
to them directed; Or for insufficient returnes thereof, Or
for any contempt or other misdemeanor whatsoeuer con-
cerning

cerning their offices, in and for the due execution or administration of Justice: P. Prer. 20.

27. H. 8. 24. All bailifes and officers of liberties, shall attend vpon the Justices of Assise, Justices of gaole deliuerie, & Justices of peace, of the same shire wherein such liberties & franchises be; And shall make due execution of all proces to them directed for ministration of Justice within such libertie. *Attender les Judges, &c.*

All Lords that haue franchises, or their bailifes, shall attend vpon the Justices of Assise and Gaole deliuerie, vpon paine of forfeiture of their franchises 20. E. 4. fol. 6. Br. Forfeiture 115.

27. H. 8. c. 24. Also all such bailifes (or their deputies) shall attend and assist the sherife, together with the sherifes bailifes, at all Courts of Gaole deliuerie, for execution of prisoners according to Justice.

Ibid. Provided that the officers of cities, and boroughs, shall not attend elsewhere, but shall enioy their liberties and privileges.

4 E. 3. 9.
5 E. 3. 4. Bailifes of liberties shall haue sufficient lands, in the places where they be ministers, or in the same countie, wherof to answer the king, and his people, if any will complaine against them. *LOUR sufficiency.*

Regist. 178. If the Lord of a libertie shall choose any man to be bailife of his libertie, who hath not sufficient lands within the same countie, then a writt shall be sent to the sherife (of the same countie wherein such libertie is) commanding him to discharge or remoue such bailife, and to choose another bailife in his place: Fitz. 164. b.

And an Alias, Pluries, and an attachment, lyeth against the sherife, if he shall not doe according as he was commanded by such a writt.

12. E. 2. c. 5. Bailifes of liberties haue full power to returne the kings writs: And euerie returne to bee made by any bailife of any franchises or libertie, shall bee deliuered to the Sherife, by such Bailife of libertie, by Indentures to bee made betweene the Baylife of the franchise, by his proper name, and the Sherife by his proper name: And if any Sherife shall change the returne so deliuered him by Indenture, and bee thereof conuict (at the suit of the Lord of the franchise, and at the suit of the partie indammaged, &c.) he shall be punished by the king, for his false returne, and shall yeeld vnto the Lord, and to the partie double damages. *Returne of Writts.*

12. E. 2. c. 5. Bailifes of liberties, that receiue the kings writs, returnable *Mister lour nofmes,*

Bailifes of Franchises.

turnable in his Court, shall put their owne names to their returne; So that the court may know of whom they take such returne, if need be: And if any bailife leaue out his name in his returne, hee shall be grievously amerced to the Kings vse: see hic antea, Retorne of Writs.

Amerce.

Amercementz for insufficient returns of writs, or other proces, made by stewards, or bailifes of liberties, having return of writs, and execution of the same, shall be set vpon the heads of such stewards or bailifes, and not vpon the sherrife: 27. H. 8. c. 24.

2. H. 5. c. 8.
13. H. 6. c. 5.

*Retorne En-
questz.*

Bailifes of liberties shall impannell and returne vpon enquestz, sufficient persons, and such as bee dwelling within their bailiwicks, &c. in Cases of Attaints and Riots.

8. H. 6. c. 9.

Where a precept is made to the Sheriffe by the Justices of Peace, to returne a Jurie to inquire of a forcible Entree, and the Sheriffe direct his precept to the bailiffe of a libertie to returne the Jurie, for this, for that the force is made within the libertie; Now the bailiffe of the libertie ought to make a due returne and execution of the precept to him directed (scz. the bailiffe ought to returne vpon euery Juror twentie shillings in issues at the first day, &c. and that euery Juror within his libertie, who is to enquire of such forcible Entree, may spend fortie shillings p annum) vpon paine of twentie pound for euery default.

Bailiffes of liberties, shall returne none of the sherriffes officers, nor any of their seruants, vpon enquestz.

23. H. 6. c. 10.

But where the bailiffe of the libertie is partie to the suit, hee shall not returne the Jurie, or make the pannell of the Array.

First Chal.

Auerment.

A man may aver against the false returnes of bailiffes of liberties; And shall recouer as well against them, as against the Sheriffe, of too little issues returned, as in other cases: And therefore vpon a writ of Distresse directed to the Sheriffe to distraine the defendant in the same writ, or the Jurors of any enquest, if the Sheriffe therevpon shall make his precept to the bailiffe of the libertie, the bailiffe ought to returne good and sufficient issues vpon the defendant; or vpon the Jurors, if they haue sufficient lands or tenements within his bailwicke, otherwise the plaintife in the action shall haue an averment against this returne of the bailiffe, scz. that the bailiffe might haue returned greater issues, if the defendant maketh default, or the Jurors; Crompt. 215.

1. E. 2. c. 5.
13. E. 1. c. 39

Where

Where the Sherife may enter a Libertie. 180

Where the Sherife may and ought for to enter
a Libertie or Franchise &c.

32.H.3.c.11
3.E.1.c.17.
P.sherifes
28.

If any mans beast or other goods be distrained or taken, *Vic' poit enter Franchise.*
and withholden or impounded, if they were taken within
any libertie, the bailife of the libertie is to make repleuin
and to deliuer them; But if the bailife of the libertie (after
complaint to him made &c. or after the sherife hath made the
retozne of the kings writ vnto him) will not or doe not de-
liuer them (or cause them to bee forthwith deliuered) then *in default del bailife.*
the sherife himselve, for default of such bailife, shall present-
ly enter into the libertie and shal deliuer them or cause them
to bee deliuered without delay, vpon paine of forfeiture of
double damages; And this is by force of the statutes made
32.H.3.ca.21. et 3.E.1.ca.17. see the Register fo.81.b. et Fitz.
N.B. fol.68.f.

Fitz.68.f.

Fitz.68.f.

If vpon a Replevin, sicut Alias, or Pluries, the sherife shall
retozne, that he hath commanded the bailife of the franchise
&c. who hath made no retozne to him, or who will make no
deliuerance &c. it seemeth that these are no good retoznes,
for that by the statute of 3.Ed.1. 17. the sherife (vpon such
default, or retozne made to him by the bailife) ought pre-
sently to enter into the franchise, and to make deliuerance
of the goods taken &c. And so if a plea of withernam bee
in the countie, by plaint, before the sherife, and the Sherife
commande (or sende his precept to) the bailife of the fran-
chise to make deliuerance &c. and the bailife doth nothing,
then the sherife, or his officer, may enter into the franchise
and make deliuerance, without any writ directed in such
case.

11.H.4. fol
6.94.
Br. Offic' 34

In a writ of Redisseisin, & in a writ to enquire of wast, *Where he is a Iudge.*
the sherife is both Iudge and officer, and there, if the land
doe lie within a franchise, the sherife cannot retozne Man-
davi ballivo &c. for he cannot grant ouer his iudicial power,
nor make his deputie in such case; But the sherife ought
there to enter the franchise and to serue the writ himselve; *Ne poit fair Deputie.*
And if he shall doe otherwise, it is error; For in these cases
of Redisseisin, & wast, the Sherife is Iudge of the record.

Fitz. 188.c.
Br. Retof 16

Note that the said writ of Redisseisin commaunds the
sheriffe, quod in propria persona sua accedat ad terram &c. et p
sacramentum faciat inquisitionem &c. And so the writ to
enquire of wast is, quod accedat ad locum vastatum 2.Hen.
4. fol.1.

In

Where the Sherife may enter a Libertie.

In an Ejectione custodie, at the distresse with proclamation, the sherife returned Mandavi ballivo libertatis &c. And by the opinions of Thirning and Markham, the sherife ought to bee amerced, for the proclamation is to bee made by the sherife by the statute (of 13.E.1.cap.35.) And then for that the distresse with proclamation, is a thing entier, the sherife ought to haue entred the franchise and executed the whole w^{it} himselfe: But Rikhill and Tirwit held the contrarie, Ideo quare. Yet note that in a Precipe quod reddat of land part in guildable, and part in a franchise, the sherife shall make his precept to the bailife of the franchise for parcell, and must serue and execute the rest himselfe.

2. Where the thing is entier

1.H.4.1.
Br.Elect.
Custod. 1.

Ibid.

3. The bailif a party.

Where the bailife of the libertie is partie to the suit himselfe, he shall not returne the Jurie, or make the pannell, but the sherife (as it seemeth) ought to enter the libertie, and to pannell the array. Herle 7.E.3.56

Fitz.Chall.
2.

4. The king a partie.

If any felon or other offendor against the Kings peace &c. shall be within any libertie or franchise, and the Justices of peace &c. shall direct their warrant or proces to the sherife for the apprehending of such offendor, The sherife is to enter such franchise, and to execute the proces or warrant and not to w^{ite} to the bailife of the franchise, for that here the king is a party, see 38.Aff. 19. et 41.Aff. 17. Br. Franch. 18.31.

And note that in all cases wherefoever the king is a party, the proces alwaies must be with a Non omittas propter aliquam libertatem, And there the sherife ought not to w^{ite} or send his precept to the bailife of the franchise or libertie, but ought himselfe to enter and to execute and serue the proces, And see Fitz.Chall. 129. that the king hath no other minister than the sherife, And where the king is a party, no franchise shall be allowed &c.

38.Aff.19

But in other cases if the sherife shall enter a franchise to execute any the kings proces, it seemeth he shall be subject to the action of the lord &c. And therefore if the sherife, or his officer, taketh one in execution for debt, within a libertie, although the execution be good; for that the sherife is the immediate officer of the king, and to the kings courts, to execute all proces, Yet the Lord of the Libertie or franchise, may haue his action of the Case against the Sherife, for entring into his Libertie: Fitz. N. Br. 95. b. et 20. H. 7. fol. 7.

But if the Sheriffe or his officer, shall take one within a franchise, vpon a Capias, or other originall proces, the party

Fr. 95. b. so taken shall haue no remedie ; for it is all one to the partie so taken whither he be taken by the Sherife, or by the Lord, or Bailife of the libertie ; And yet here the Lord of the franchise shall haue his action against the sherife. 43. E. 3. 30. & 11. H. 4. 9. *Enfreint leur libertie.*

Br. faux. mp. 26. If the bailife of the franchise shall take one in execution within the Guildable, it is erro2. 11. H. 4. fol. 9. Br. Offi. 35.

A Capias goeth out to the sherife of Middlesex, and they arrest the partie in London, a writ of false imprisonment lieth against them, for this arrest, And yet the sherifes of Middlesex are sherifes of London.

1. R. 3. c. 3. Stamf. 193. Bailifes of franchise ought not to take or seise the goods of any person, arrested or imprisoned for felony, before the same person bee convicted or attainted of the felonie according to lawe ; Or that the same goods bee otherwise lawfully forfeited ; vpon paine to forfeit the double of the goods so seised to the partie grieved &c. *Seise biens de felens.*

Bailifes of Liberties.

1. E. 3. c. 7.



Sherifes, Bailifs of Liberties, and Gaolers, which haue the keeping of prisons or gaoles, if by duresse of imprisonment they shall compell prisoners to appeale or accuse others, they shalbe punished by the Justices of Gaole deliuey : see the statutes 13. E. 1. cap. 12. & 1. E. 3. cap. 7. *Cause prisoner deise approuer.*

14. E. 3.

But after by the statute made 14. E. 3. c. 10. It was made felonie for a gaoler or keeper of the prison to cause a prisoner to become an approuer or appealor.

4. E. 3. c. 10.

Such bailifes of liberties, shall receiue felons arrested or taken within their franchise, and safely keepe them in prison without taking any thing : Crompt. 215. *Receiuer felons.*

3. E. 3. c. 14.

Such bailifs shal receiue night walkers or other suspected persons, which shall be arrested or taken within their franchise, And shall keepe them in prison till the coming of the Justices of the Goale deliuerie &c. *Et persons suspect.*

3. H. 7. c. 3.

Such bailifs, shall certifie the names of such prisoners, as they haue for felonie, at the next Gaole deliuerie in that countie or franchise. *Certifier leur prisoners.*

Gaolers.

Gaolers.

Gaolers.



Sherifes and Gaolers shall receiue and safely keepe in their prisons, all theenes, felons, and persons appealed, or indicted, which shall be taken and attached and deliuered or brought to them by the Constables and Towneships; without taking any thing for the receipt of them, And the Justices of Gaole deliuerie haue authoritie to heare their complaints that will complaine of the Sherife and Gaoler in such case, & to punish them if they be found guilty.

Receiuer felons.

Vis charge one Gaole.

Sherifes shall haue the keeping, rule, and charge of euery of the common Gaoles in euerie of the Counties where they be Sherife, and of the Prisoners therein: And they must put in such keepers, for whom they will answere: Statute 14.E.3. cap.20. et 19.H.7. cap.10. et 23.H.8. cap.2. (See my Countrey Iustice pag. 148.) Except all Gaolers whereof any person Spirituall or Temporall, or bodie Corporate haue the keeping of estate of inheritance or succession.

Felons laintuws.

And all murderers, and felons, shall bee imprisoned in the Common Gaoles, and not else where.

Certifier leur prisoners

Euerie Sherife, Bailife of Franchise and euerie other person hauing authoritie of keeping of gaoles, or of prisoners for felonie, shall certifie the names of euerie prisoner in their keeping, and of euerie prisoner to them committed for any such case, at the next generall Gaole deliuerie, in euerie Countie or Franchise where any such Gaole is, or shall be, there to be kalendred befoze the Justices of the deliuerie of the same Gaole, whereby they may aswell for the King, as for the partie, proceed to make deliuerie of such prisoners according to the lawes, vpon paine to forfeit to the King for euery default there recorded fine pound. 3.H.7. cap.3.

Habeas corpus.

No writ of Habeas Corpus shall be granted to remone any prisoner out of any Gaole, except it be signed with a Justices hand of the same Court, out of which the same writ shall be awarded or made.

Misuse prisoner.

If a man be committed to the Gaole for debt, or arrearages of accompt, and the Gaoler maliciously puts vpon him so many prons, or puts him in the stockes, or withholds his victuals from him, by reason whereof he becomes decrepite, lamed, or otherwise diseased &c. he may haue his action of the case against the Gaoler.

And yet by the Statute of Westm. 2. ca. 11. Accomptants, and

and such as are in execution, the Sherife or Gaoler may put prongs or fetters vpon them, (scz. in reasonable manner.) See hic antea: Execution vpon a Capias ad Satisfac'.

If the Gaoler shall suffer a prisoner to escape, which prisoner was found in arrearages before Auditors, and by them committed to his Gaole, now must the Gaoler pay to the party the summe of money which was behind vpon the accompt. Fitz. 95. c. & 130. b. *Escape.*

And if the prisoner were in vpon an Execution, (for Debt, or dammages) and shall escape, the Gaoler shall be chargeable for the Debt &c. Fitz. 121. a. p.

Co. 10.
100. b.

If a Gaoler shall take any obligation of his prisoner, with condition (endowed &c.) to be true prisoner, it is void. *Pris. oblig.*

So of a condition to pay for his meat and drinke, such obligations are void. Co. 10. 100. b. For the Sherife, gaoler, or other officer, are not bound to find meat or drinke for their prisoners. Pl. 68. a.

And it seemeth that gaolers may not take any bond or obligation, of any thier prisoners, or of any other, for the enlargement of their prisoners, in any sort whatsoeuer.

Concerning the gaolers fees &c. see hic postea titulo Fees.

Fees.

Pl. 206.
Br. faux
imp. 32.

Note that in some case a prisoner sent out of one Shire or County, ought to be received by the Sherife or gaoler of another Countie: And therefore whereas the stat. of West. 2. c. 11. provideth that in case of accompts before Auditors, & arrearages found, Arrestent corpora eorū & per testimoniū Auditorū ejusdem compoti, mittantur & liberentur proxima Gaola, dñi Regis in partibus illis &c. Thereupon it was holden in 27. Hen. 6. that the Auditors ought to commit the accomptant to the next gaole, although the next gaole be in another Countie, for that they might not varie from the place limited by the stat. And then if the Sherife, or gaoler, shall refuse to take such a prisoner being deliuered to them, & so the prisoner shall escape &c. the Sherife or gaoler seemeth to be chargeable for the Debt, by the same statute of Westminster 2.

The Fees, Allowances, and Availes due to the Sherifes and their Officers.



Sherifes ought to take no reward, or other thing, for doing of their office, but onely of the king, or that which is appointed for them to take by the Statutes (and Lawes of this land) and if they doe otherwise

Their Fees, &c.

Extortion.

otherwise it is extortion in them : And if any sheriffe, or any of his officers, &c. shall doe any extortion, & be thereof attainted, he shall yeeld twice as much as he tooke, to the partie grieved, and besides he shall be punished for the same at the kings will : or hee may bee indicted thereof, before the Justices of Gaole deliuerie, or Justices of peace, and by them be punished, scz. they may be fined to the King : see the statutes 3.E.1.cap. 26. 20.E.3.cap.6. et 1.H.4.cap.11.

Now extortion is thus defined or described.

Quid.

Extortio est crimen, quando quis Colore Officij extorquet quod non est debitum, vel quod est supra debitum, vel ante tempus quod est debitum. Co.10.102.

Another describes it thus. Extortion is where the sheriffe, vnder sheriffe, bailiffe, or other officer, by colour of his office, shall take any excessive reward or fee ; or shall take more than the law doth allow him (for the execution of his office ;) or shall take any reward, or fee, for any matter, cause, or thing, where the law doth allow no fee at all : P.R.82.

*Gather plus
que est due.*

If the sheriffe, or any of his officers, or any other officer, by colour of his office shall gather, leuie, or receiue, of any person, any amercements, rents, or other duties, which are not due, or more thā is due, this is extortion : & so sir Iames Altham deliuered it in his charge at Cambridge Assises : añ dñi 1615.

*Money le
Roy.*

If any man doe leuie and receiue money due to the King, or for the vse, behoofe, or seruice of the King, & do not imploy the same accordingly ; or else doth not pay the same money to the King, or his lawfull receiuer, it seemeth he may be indicted of extortion : see 27.Aff.P.15. et 17.Br.Fees 10. et 11.

*Sparing a
Iuror.*

If any sheriffe, vnder sheriffe, bailiffe of libertie, or any of their officers, shall receiue, haue, or take, by himself or any other, any sum of money, reward, or other profit, directly, or indirectly, or do take any promise, make any agreement, or assent to haue, any sum of money, reward, or other profit, directly or indirectly of any person, for the sparing, not warning, or not returning, of any person to be sworn as a iuro, for the triall of any issue toynd in any of the Courts of the kings Bench, Common Pleas, or Elchequer, or before any Justices of Assise, it is extortion, and euerie sheriffe and other officer so offending, shall forfeit for euerie such offence v.li. to the King & Informer, &c. 27.El.c.6.

*Omitt de
arrestor &c.*

If the sheriffe, or any of his officers, &c. shall take any money, or other reward, for the omitting of any arrest, or attaching to be made, it is extortion, & the sherif or other officer so offending, shall forfeit for euerie such offence xl.l. to the King, & Infor, &c. 23.H.6.c.10.

*Per monstre
fauor.*

So it is, if the sheriffe or gaoler, &c. shall take any money or other reward, for shewing ease or fauour to any prisoner or person arrested : see Br. Fees 6. Ibid. 21.H.7.6. 17.a.

So

So if the Sherife or Gaoler shall detaine any person in prison (after they be discharged by the Court) for meat, drinke, or other thing, except for their due fees onely, it is extortion. 8.E.4.fol.18.Br.fees.15.

21.H.7.16.
17.
Flo.465.b.

And yet vpon an action vpon the statute of 23.H.6.C.10. *Barre fee.* for extortion against an vndersherife, for taking of twentie pence aboue his fee, of a prisoner in his ward &c. and vpon evidence it appeared that the defendant and all vndersherifes of the same Countie, time out of mind &c. had bled to take of every prisoner, taken for suspicion of felonie, and in their ward &c. twentie pence, when they were acquitted; and this fee they called barre money, or a barre fee: And by the opinion of the Iustices this case was out of the statute, for the intent of the statute is, when sherifes &c. shall take such summes of money of their prisoners, to giue ease and liberty to their prisoners; (who are in their ward) but here when the prisoner was acquitted, he was no prisoner &c. And this fee was assigned by the Court for a barre fee, by their discretion, in consideration of the great charge which the sherife is at in keeping, carrying, and recarrying his prisoners, and in keeping many servants, to conuey and attend them, for danger of escape: And so where a Gaoler shall conuey or carry a prisoner into the Kings Bench, about a writ of Error, to reuerse an Outlawry, he shall haue for his labour by the discretion of the court, and it is out of the statute.

21.H.7.17.

Si viconit ou Gaoler prist del prisoner son toge, ou autre garment, ou argent extra-bursam, mangre son trespas; ceux sont extra-casum statuti, nec sont extortion, meuz un trespasse; par recovery de que le prisoner poit auer action, et recouer le value in damages.

If a man be committed to the Gaole for two severall felonies, and be after discharged, hee shall pay but one fee, for the Gaolers attendance was vpon one person: and if the Gaoler shall take any moze than one fee, it seemeth to be extortion: see 26.Ass.P.47.Br.Fees 8.

34.H.6.42

If a man that is attainted of trespasse, doe come into the court, and praieyth to make his fine to the King, and offereth pledges for his fine, if the gaoler (or other keeper of the prison) doe take any fees of him, it is extortion, for that hee came in gratis, and out of ward, and yielded himselfe to the court: but if there bee proces awarded against him for his said fine, and he taken thereby, then hee must pay his fees to the gaoler, &c. and there it is no extortion, for that he came in by compulsion, and not willingly, P.R.9.

42.E.3.44.
Br.fees.18.

The Sherife prescribed to haue xl. s. pay of I.S. and his ancestozs for holding his Torne at D. for the ease of the defendant & his tenants, for which summe he distrained, and by

Their Fees &c.

the court it was holden that the sherife could not prescribe, for that he is an officer remouneable peereley, and therefore the taking of that sum was extortion.

Sherifes and their Officers, shall receiue all writs without taking any fee, 2.E.3.c.5.

Sherifes and Gaolers, shall receiue felons, without taking any thing &c. 4.E.3.c.10.

And if Sherifes, their Officers, or Gaolers shall otherwise doe, it seemeth to be extortion.

No Sherife, Undersherife, Bailife of franchise, nor any other bailife, by occasion, or vnder colour of his office, shall take any other thing, by themselves, or by any other person, to thrie vse, or profit, of any person by the arrested, or attached, nor of any other for them, for the omitting of any arrest, or attachment, to bee made by their bodie, or of any person by any of them by force or colour of their office, arrested or attached, for fine, fee, mainprize, letting to baile, or for shewing any ease or fauour to any such person, so arrested, for their reward or profit, but such as hereunder follow.

The fees allowed them by statut, are these:

For the Sherife	xx.D.
For the Bailife who maketh the Arrest, or Attachment	iiij.D.
Upon an Arrest: For the Gaoler, if the prisoner bee committed to his ward.	iiij.D.
For any obligation for apparance, if the prisoner be bailed.	iiij.D.
For any warrant making.	iiij.D.
For the Copie of a pannell.	iiij.D.

For the retorne of the pannell they vse to take two shillings but it seemeth to be extortion by the opinions of Mast. Lamb. fol. 415. and of Master Crompton fol. 205. b. and the words of the statute of 23.H.6. shewes asmuch, the words be thus, The sherife, vndersherife, sherifes clerke, steward, or bailife of franchise, seruant to the bailife, or coroner, shall not take any thing by colour of their office, by him, nor by any other person to his vse, of any person, for the making of any retorne, or pannell. And yet see the sherifes oath, 27.Eliz.ca.12. that seemeth to allow two shillings for the impannelling or retorning of a Iurie, Ideo quære.

If any sherife, or any their officers, shall take any fees &c. contrarie to the said statute of 23.H.6.cap.10. they shall loose to the party griued his treble damages, and besides shall forfeit fortie pounds to the King, and Informer, or other party that will sue for the same.

No sherife, vndersherife, bailife of franchise or libertie, nor any

*Lowre Fees
for Arrest.*

*Retorne de
panell.*

Le forfeiture

Sup executio

23.H.6.ca.9.
Plow.465.

Ibidem,

29.Elc.4.

any of their officers, ministers, servants, bailiffs, or deputies, by reason or colour of their office, shall have, receive, or take of any person whatsoever, directly or indirectly, for the serving and executing of any Extent or Execution, upon the body, lands, goods, or chattells of any person whatsoever, more, or other consideration or recompence than is hereunder limited and appointed, scz. 12. d. of and for every 20. s. where the summe exceedeth not 100. l. and 6. d. of and for every 20. s. being over and above the said sum of 100. l. (scz. for every 20. s.) that he or they shall so levy or extend, & deliver in execution, or take the body in execution for, by vertue & force of any such Extent or Execution whatsoever, upon pain that every sherife, and other officer &c. which at any time shall directly or indirectly do the contrary, shall lose to the party grieved his treble damages, and shall forfeit besides 40. l. to the King and Informer &c.

Le forfeiture.

But this former sta. of 29. El. extends not to any fees to be take for any executio done within any city or town corporat.

Corporations

Note that bailiffs, stewards, and other ministers within liberties, shall have like fees, & like punishment for extortion, as sherifes and their officers have out of liberties, 27. H. 8. c. 7.

Liberties.

31. Eliz. 3.

For making proclamation at the Church doore upon an Extent &c. the sherife is to have 12. d.

Proclamatio.

Also it seemeth that there are due or belonging to the office of a sherife (or that sherifes have in ferme) certain other fees, annuities, rents, farms, issues, fines, amerciaments, escheats, estrais, and other casual reveinues and profits. See the book 20. H. 7. f. 12. Tosts case vers. Cromer, and the vsuall Indentures made betweene the sherife and his undersherife.

Their fermes

6. H. 7. f. 12.

Br. Lect. 11.

By the stat. made 1. Ed. 4. c. 2. all presentments and indictments taken by the sherifes in their Tourns, shall be delivered to the J. of P. to proceed upo, who after shall estreat all fines & amerciamentz set upon such offenders (as were indited or presented in the Tourn) & shall deliver such estreats by indenture (to the present sherife &c.) to the use & profit of him which was sherife at the time of the taking of such presentments or indictments. And the said (old) sherifs shall have to their own proper use the benefit of all such fines and amerciamentz so estreated.

Profit in

Torne le vie.

Pea the sherifes shall have all the amerciamentz, fines, and other profits of their Tourn, for that they have no other thing to leuie so great a summe as they (and every of them) is charged withall upon their account, but the profits of this court, by Fairfax, Fineux, and Tremaille. 6. H. 7. fo. 2. & 3.

Quare the certainty what the other profits of the Tourn are, which the Sherifes are to have,

And

Their Fees &c.

And see the Stat. of 2. & 3. Ed. 6. what allowances and re-
wards Sherifes shall haue vpon their accompts in the Ex-
chequer, and P. Sherifes 38.

But note concerning felonies presented in the Cozne, the
sherife is to haue no profit thereof, but only the king. 6. H. 7. 3.

*In the Coun-
ty Court.*

Queene Elizabeth During the vacancie of a sherifewicke, Co. 4. 33.
granted (by her letters patents vnder the great seale) to one,
the office of the Clerke of the County Court, with all the
fees &c. during his life, and after a Sherife was chosen and
made of the same countie, and vpon question made thereof,
the Queenes grant was adjudged to bee void, for that the
Countie Court, and the entring of all the proceedings there-
in, are incident to the sherifes office, and so of the Sherifes
Cozne; and therefore the sherife is to appoint clerks vnder
him, both in his County Court, and Cozne, such as hee will
answere for.

Wa les.

By the statute made an 34. H. 8. the sherifes in Wales shall
keepe their County Courts monethly, and their Hundred
Courts for ples vnder xl. s. as is vled in England, and shall
take for the entring of plaints, proces, ples, and iudgements
in their said shire Courts and Hundreds, such small fees as
are vled to be taken in Shires and Hundreds in England,
P. Wales 41.

All bills sued before the said Justices in personall actions, P. 47.
34. H. 8.
whereof the debt, duetie, or damage is vnder xl. s. the sherife
shall haue for the returne of every bill ij. d. and for every Ve-
nire facias, Tales, Habeas corpora, and Distringas, ij. d. and for
writs of execution vpon the iudgment in any such bill xij. d.
And in bills sued before the said Justices in actions perso-
nall aboue the summe of xl. s. the sherife shall haue for the re-
turne of every such bill iiii. d. and for the returne of every Ve-
nire facias, Habeas corpora, Distringas, and Tales iiii. d. and for
every writ of execution ij. s. And in all personall actions sued
by originall writs returnable before the said Justices, the
Sherife shall haue for every Iterum summa, Distring', and Alias
Distring' iiii. d. And for every Venire fac', Habeas corpora, Di-
string', and Tales vi. d. and for every writ of execution to bee
executed vpon the iudgment in any such actions ij. s. for the
seruing of every writ of Elegit vi. s. viii. d. And in all reall
actions or mixt, pursued before the said Justices by ori-
ginall writ, for returne of every originall writ ij. s. and
for returne of every other writ and iudiciall proces depen-
ding vpon the same before iudgement ij. s. & for every writ
of execution after iudgement vpon euery originall in actions
reall or mixt ij. s. and for seruing of every writ of Habere
facias

facias seisinam 6.s.8.d. And for attachments vpon Capias, or other proces sued befoze the said Iustices by originall or iudicial writ if he retorne Capi corpus, 2.s. and for a Reddedit se vpon an Exigent of felonie in appeale of murder, or maim, or vpon any indictment of felony or murder, 2.s. And vpon a Reddedit se vpon an Exigent of debt, trespass, detinue, and all other actions personalls 12.d. And for the making of a Repleg' 12.d. and Withernam vpon the same 12.d. For the retorne of euery writ of appeale of murder, felony, or maim 12.d. And vpon all other proces growne vpon the same, as Venire facias, Tales, Habeas corpora, and Distring' 12.d. And in euery action taken befoze the sherifes by Iustices for the summons thereof 4.d. and for euery other proces thereupon 4.d. And for euery prisoner deliuered by acquittal, or by proclamation for any maner of felony 12.d. 34.H.8.

24.H.8.
P.Wales 48

And the said sherifes shall haue for the retorne of a writ of false Judgement out of a base court, befoze the said Iustices 2.s. And the said sherife shall take no maner of fee for the retorne of any of the said writs of execution befoze expressed, vnlesse he retorne the same executed. 34.H.8.

Euery sherife within the 12.shires of Wales, hath for his fee yearly v.l. 34.H.8.ca.26.

Where the sherif of Cambridgeshire is to haue to his own vse for his time, x.l. per ann. out of the manor of Maddingley, in the said countie. See Stat. 34.H.8.cap.24. hic tit. Knights of the Parliament.

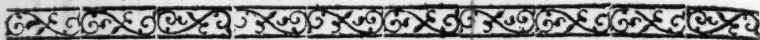
Sherifes are to certifie into the Exchequer the defaults of all such as shall not keepe stoned trotting hozles for the saddle &c. according to the stat. of 33.H.8.c.5. and are to haue the moity of the forfeiture. See hic fol. 150.

23.H.8.c.10

Euery sherife (within one moneth after the arriuall) may seise all the goods of Egyptians &c. that shall come into this realme, and may keepe the one moitie thereof to his owne vse, making accompt to the king in the Exchequer for the other moitie.

Their

Their Accompts.



Their Accompts.

The time.

A well high sherifes as vndersherifs (of most shires) in Hillarie Terme next after they are out of office, are sworn to yeid vp and giue a iust and true accompt to the king, and his officers in the Exchequer of all such Dueties, perquisites, and profits whatsoeuer (happening within the time, or compasse of their office) which are due and belonging to the king, and chargeable vpon them to answer for by reason of their office. See the statutes 51. H. 3. de Scaccario. Statut de Rutland 10. E. 1. 1. R. 2. ca. 5. & 5. R. 2. c. 11.

For what things.

What things they shall bee accomptable for, appeareth in part here before, tit. Franchises, Rents, Fermes, Debts, Issues, Amerciaments, Fines and Forfeitures: But yet for your better satisfaction, the experience and course of the Exchequer is to be learned.

It seemeth that sherifes shall not bee accomptable but for their owne times, and for the yeare of their shirifewicke only; neither shall they be charged, in or vpon their accompt with any arerages or duties due to the k. by any of their predecessors, in the said office of shirifewicke. See the stat. 2. & 3. Ed. 6. cap. 34.

The manner.

The manner of their Accompt: See master Wilkensons Booke of the Office of a Sherife fol. 36. 37.

Their allowance.

What allowances they shall haue vpon their accompt, see the statutes of Rutland made 10. E. 1. 4. H. 5. c. 2. & 2. & 3. Ed. 6. c. 4. And besides learne the vse and course at this day.

The charge.

For the ordinarie charges of the shirifs account, see a particular thereof in master Wilkensons said booke, fol. 38. 39. 40. & 41.

But besides those ordinarie charges, the extraordinary fees and charges of passing the shirifs accompts seeme to be such, and the busines it selfe so tedious, as it troubleth them all (be they neuer so skilfull therein:) which thing requireth a redress, considering that the vndersherifs, or officers vpon whom this burthen lyeth, are thereby not only stripped themselues of almost whatsoeuer they shall iustly or honestly saue in their offices, but are also enforced thereby to extort and wring from the subjects to make themselues sauer.

*Totting.
Nichalling.*

Amongst other things, it seemeth behouefull for shirifs or vndersherifs, vpon the making of their accompts, to haue a speciall

27.E.1.

sp eciall care, what they Tot, and whom they Nichill, that is, that they charge or discharge men orderly, honestly, & with vnderstanding; for if they tot or charge any thing, though it can neuer be leuied, yet it will now hardly be auoided, but it must be paid; and if it be nichilled, if it be issues of Iurozs, though they be neuer so bad, and cannot be leuied, yet between the old sherife which returned them, and the new sherif which nichilled them, they must be paid, (by the stat. made 27.E.1.c. 2.) although it be seven yeares after, if there come no pardon in the meane time. And yet where the old sherife returneth a Iuroz in issues, the next sherife cannot, nor may not returne the same Iuroz Nihil, contrary to the former returne of his predecessor, by the booke 19.H.6.Br. Retorne 49. See hic antea fol. 75.

W.36.

But to preuent this, it behoues all sherifs befoze they take vpon them to returne any Iurozs, to get them a perfect booke of all the sufficient freeholders names in the shire, and especially of all those which dwell in the guildable (howsoever they do of those which are in liberties, but of both is best, that the one may helpe the other,) and to returne few, or none that bee meane freeholders in the guildable, least (by the former recited statute) they be enforced to pay their issues for them: and this they may bring to passe, either by the helpe of the Justices of P. in their seuerall diuisions, who may cause the constables of euery particular towne, to bring a true certificate (of the sufficiency of euery freeholder within their seuerall townes) vnto the first quarter sessions (that shall be holden in that countie &c.) after the election of the new sherife, to be to him deliuered there; or else the new sherife himselfe may cause his bailifs to do this within euerie of their hundreds or diuisions: and besides the helpe of the subsherie books will not be a little auailable hereunto.

*Livier des
nommes les
freeholders.*

This word Totting, or Totted, is a word vsed of a debt which the forreine opposer, or other officer in the Exchequer noteth for a good debt to the king, by writing this word (Tot) vnto it. Minsh.

Also this word Nichilling, or Nihil, is a word set vpon a debt by the forreine apposer in the Exchequer, when that it is illeuable, or cannot be leuied.

Forreine opposer, Forinsecarum Oppositor, is an officer in the Exchequer, to whom all sherifes &c. bailifes do repaire, by him to be opposed of their greene wax, and from thence draweth downe a charge vpon the sherifes &c. bailifes, to the clerke of the Pipe. Minsh.

*Forreine op-
poser.*

Greene wax, this word seemeth to be vsed for the estreats deliuered to sherifes out of the Exchequer, vnder the seale of that

Greene wax.

Their Accompts.

that court, to be leuied in the county, *ibid.* See the statutes made 42.E.3.c.9. & 7.H.4.c.3.

Clerke of the Pipe.

Clerke of the Pipe, is an officer in the *Exchequer*, who hauing all accompts and debts due vnto the *Exchequer*, deliuered and drawne downe out of the Remembrancers offices, chargeth them downe into the great Roll; who also writeth summongs to the sherife to leuy the said debts vpon the goods and chattels of the said debtors; and if they haue no goods, then doth he draw them downe to the Lord Treasurers Remembrancer, to writ extreats against their lands. The ancient reuenues of the crowne remaineth in charge before him, & he seeth the same answered by the fermers and sherifs to the king. He maketh a charge to all sherifs of their summongs of the Pipe, and Greene wax, and seeth it answered vpon their accompts. He also hath the ingrossing of all leases of the kings lands. *Ibidem.*

Remembrancers.

Remembrancers of the *Exchequer* (Rememoratores) be three officers or clerks; one called the Kings Remembrancer, Stat. 35.El.c.5. And another called the Lord Treasurers Remembrancer, vpon whose charge it seemeth to lie, that they put all the Iustices of that court (as the Lord Treasurer, and the Barons) in remembrance of such things as are to bee called on, and dealt in for the princes behoofe; The third is called the Remembrancer of the first fruits, concerning whom, See the statutes 37.E.3.c.4. & 5.R.2.stat.1.c.14. & 15.

The *Exchequer* Remembrancer entreth in his office all recognisances taken before the Barons, for any the *Exchequer* debts, for apparances, or for obseruing of orders. He also taketh all bonds for any of the *Exchequer* debts, for apparances, and for obseruing of orders, and maketh out proces vpon them for the breach of them. He writeth proces against the Collectors of Customes, Subsidies, and fifteenes, for their accompts. All informations vpon penall statutes are entred in his office; and all matters vpon English bills in the *Exchequer* chamber are remaining in his office. He maketh the bills of compositions vpon penall statutes; taketh the statements of debts; maketh a record of the certificate deliuered to him by the Clerks of the Star chamber of the fines there set, and sendeth them to the Pipe. He yearely (in Crastino Animarum) readeth in open court the statute for the elections of sherifs, and giueth those that chuse them their oathes. *Ibidem.*

The Treasurers Remembrancer maketh proces against all Sherifs, Elcheatores, Receiuers, and Bailifes, for their accompts. He maketh proces of *Fieri facias*, and Extent, for any debts due to the *Exchequer*, either in the Pipe, or with the Auditors. He maketh proces for all such reuenue as is due to the king

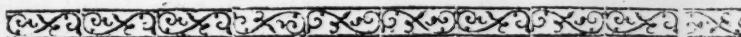
king by reason of his tenures: he maketh a record, whereby it appeareth whether sheriffs & other accõptants pay their proffers due at Easter & Mich. he maketh another record, whereby it appeareth whether sheriffs & other accomptants keep their daies of p̄fection. All extreats of fines, issues, & amerçiamẽts set in any courts at Westm̄, or at the Ass. or Sess. are certified into his office, & are by him deliuered to the clerke of extreats to write proces vpon them: he hath also brought into his office all the accompts of customers, controllers, & other accõptants, to make thereof an entrie of record. Ibid.

The Remembrancer of the first fruits taketh all compositions for first fruits and tenths, and maketh proces against such as pay not the same. Ibid.

The clerke of the extreats is also a clerke belonging to the Excheq. who termely receiueth the extreats out of the Lord Treasurers Remembrancer his office, & writeth them out to be leuied for the k. he also maketh schedules for such summes extreated as are to be discharged. Ibid.

Note that if the sherife shall seise the goods of one that is outlawed, or for other like cause, & when hee maketh his accompt, he doth not accompt for the same &c. it seemeth the owner of the goods may haue an actiõ of trespass against the sherife for such seising or taking of his goods; for that the sherife must plead that he hath accõpted for them: & if he shal not accõpt for the same, he shalbe said to be a trespassor ab initio, see 3 H. 7. 3. b. & 21. H. 7. 23. also see 18. E. 4. 23. 7. H. 4. 5. & 14. H. 6. 5

For the better helpe of sherifes I haue heere againe shortly set downe their dangers &c. that so by their care and diligence they may the better preuent and elchew the same.



The dangers, forfeitures, and punishments of sherifes,
for things done, not done, or misdona, by them,
or by their officers.

Albeit that the care of our Parliaments hath alwaies beene, that choice should be made of such persons, for this office of the Sheriffe, as should be men of good sufficiencie, such as might attend to execute this office (for the good of the king, and his people, and such as needed no reward for their trauell and paines in that behalfe (as may appeare by the seuerall statutes here befoze recited,) yet partly in regard of their great charges by them vndergone, as well in their attendance and execution of their places &c. as also of the great summs of mony wherewith they are charged vpon their accompts; and partly in regard that it is not possible that the sherifes themselves should do execution of all things

k k

belonging

The Dangers of Sherifes &c.

belonging to their offices, but that they must vse the helpe of diuers and sundrie other inferior officers and persons therein; therefore the lawes and statutes of this realme haue not only rewarded the high sherifes themselves, but also their inferior officers with some small allowances, auailles, & fees, as may appeare here befoze. And on the other side, for that the negligence, remissnes, and misdoing of men put & placed so highly in trust, if it should not sometimes be corrected by due chastisment or punishment, it would breed not only too much dulnesse or carelesnes in these chiefe officers themselves, but also much extortion, oppzession, and other wrongs both to the king, and his people, from them, but especially from their inferior officers and ministers. Therefore the lawes and statutes of this land haue likewise indicted due punishments and paines, not only vpon the highsherifes themselves, but also vpon their inferior officers; and in many cases vpon the highsherife himselfe, for the faults and defects of his vnder officers; as may partly appeare here befoze throughout this booke, and more particularly in this that followeth.

And therfoze in some cases the sherif &c. shalbe amerced, and in some cases shal pay a fine, or forfeit to the K. In other cases he shal be imprisoned; and in some cases may bee indicted as an offendor against the K. in the highest degree; & in other cases shalbe liable to the action of the party griued, & chargeable to pay his debt or damages.

Escape.

And first note, that the sherife of euery county shal haue the keeping of, and shal be chargeable & charged with the comon gaole & prison of the same county (where he is sherife) & with all the prisoners therein; and must put in such gaolers for whom they will answer, by the statutes of 14.E.3.C.10.& 19.H.7.C.10. Co.4.34. And therefore the highsherife himselfe shalbe answerable for the escape of a felon, suffered by his gaoler, & (by some opinions) may be indicted of felony for the same, if the escape suffered by his gaoler were voluntary. See the Presidents to this purpose in Lamb.v.v.5. and in West.M.1.

De felon.

And yet sir Iohn Sauadge being a sherife in fee, was (in 5.M.) indicted in the K. Bench for the escape of two felons, felonice & voluntarie &c. and his office was only seised therfoze &c. as it seemeth in Dyer fol.151.

And indeed such an escape suffered by the gaoler, or other the sherifes officer, without the sherifes knowledge or consēt, may seeme but a negligent escape in the sherife, & so but fineable in the sherife, (or a cause to seise his office being in fee) and to be felony only in the gaoler or officer, who voluntarily suffered the escape. See Crompt.252.b.& quære inde.

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attach.*

By the statute of 3.E.1.cap.9. if any sherife for any cause
shall

shall conceale any felony done within their county; or shall not attach or arrest such felons within their countie, as they may, they shall be imprisoned for one yeare, and fined at the kings pleasure.

If any Sheriffe or Gaoler shall denie to receiue any felon, by the deliuey of any Constable or towneship, or shall take any thing for receiuing of such, they shall be fined by the Justices &c. 4. E. 3. ca. 10.

Euery Sheriffe ought to certifie in a Kallender the names of all their prisoners which be in their gaole for felony, at euery Assises or Gaole Deliuery, sub poena 5. l. hic 143. 144.

3. E. 1. c. 4.

If the Sheriffe, or any other, do take or leuy any thing for the escape of any felon, before it be adiudged by the Justices in Eyre, Justices of the K. Bench, or before some other Justices that haue authoriry to enquire thereof, he shall restore to the party, or to him that paid it, as much as he receiued, and besides as much to the king. Westm 1. 4.

*Leuy money
p^r Escape.*

12. E. 1. c. 11

If the Sheriffe do suffer any bailiffe, chamberlaine, seruant, receiuer, or other accoptant to go at libertie, which is committed to prison by Auditors; or if the Sherif shall baile, or otherwise deliuer them without the consent of their master, the Sheriffe shall answere the whole debt.

*Escape del
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Ibid.

So if the gaoler shall suffer any such bailiffe &c. or other accoptant which is committed to prison by Auditors, to go at libertie, or to escape, if the gaoler be not able to pay and answere the debt, the Sheriffe that committed the custody of the gaole vnto him, shall be answerable.

And so it seemeth in all cases of Escape, the gaoler or vnder officer who hath the actual possession of the gaole or office, shall answere for all escapes: But if they haue not sufficient wherewithall to answere, respondeat Superior, sc. he which committed or granted the custody of the gaole vnto him shall answere it. Co. 9. 98.

A man is taken in execution vpon a Capias ad satisfac, and is committed to the gaole, and the Sheriffe suffereth him to make an escape, the Sheriffe is chargeable for the whole debt, hic fol. 8. 50. 57. 58.

So if his vndersheriffe, or any of his bailifes hauing taken one in execution, suffereth the prisoner to escape; or if the prisoner of his owne wrong breaketh away; or if the prisoner be rescued by strangers: in these cases the Sheriffe himselfe shall be charged for the escape, and shall be chargeable to pay the whole debt: for the act, or default of their vndersherifs, deputies, or bailifs, shall charge the Sherif himselfe. See the stat. 1. R. 2. c. 12. & 7. H. 4. c. 4. Fitz. 93. c. & Br. Officer 24. & 33. & hic antea fol.

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kk 2

ballivo

The Dangers of Sherifes &c.

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And it is no good returne for the Sherife, quod mandavit

kk 2

ballivo

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ballivo itineranti, que respondit que il arrest le partie, & rescous est fait; for this was the arrest of the sherife himselfe: And if it were vpon a Capias ad satisfaciend', or Capias vtlagatum after iudgement, the sherife himselfe shall be charged for the escape, except it were by the Kings enemies: but if it had beene by Bailiffe of a franchise, the returne had beene good, and there a Non omittas should haue gone out, Dyer 241.

Note that in case of such a Rescous, the Sherife must take his remedie by action of the Case, against them which made the Rescous (Dyer 241.) and they many times little worth, and so the Sherifes remedie in such case very easie.

*Escape del
dettor.*

Now what other acts shall be said to be an escape, which shall charge the sherife.

The Sherife, or his officers, haue one in execution for debt, and after carrieth the prisoner into another countie to talk and take order with his creditor, this is an escape, Vide Dyer 296. Cr6.204.b.

The Sherife &c. hauing one in execution for debt, takes bonds of the prisoner, and of diuers others, to pay the sayd debt or summe at a certaine day, to the Sherifes sonne, or other friend, and then lets the prisoner go at large, this is an escape. Cr6.106.a.

The sherife vpon a Capias ad satisfac' returneth a Capi corpus, but hath not the bodie at the day &c. he is chargeable for an escape, hic 69.82.

So if vpon a Fieri fac' he returneth Fieri feci, but hath not the mony at the day, he is chargeable for the money, hic 69.

*Nes faire
l'arrest.*

The Sherife (or his officers) arresteth one vpon a Capias ad satisfac' and do not return the writ, this is an escape. Cr6p. 207.a. & hic fol.

The Sheriffe &c. hath one in execution for debt, and then licenseth the prisoner to go at libertie for a tyme, and then to returne, who returneth accordingly at his day, yet this is an escape. Co.3.44.

If the Sherife &c. shall suffer the prisoner (which is in vpon an execution) to go at large, although it bee by bayle, or mainprise, or by baston (scz. with a keeper) before the prisoner hath agreed for his debt, this is an escape; for such prisoners ought to be kept in *salva & arcta custodia*. See the Statutes 1. Rich.2.cap.12. & 7.Hen.4.cap.4. & Co.3. 43. 44.

But if a prisoner who is in vpon an execution, shall of his owne head and wrong go at libertie, and after shall returne againe, and shall yeeld himselfe prisoner, or shall bee taken againe by the Sherife or officer vpon fresh suit (before any action be brought by the plaintife against the Sherife for the escape)

C. Ibid.
De Escape
4. & 33.

escape) this is no escape. See Co. 3. 44. & 52. & hic fol. 57.

And so if one in execution for debt, shall of his own wrong escape into another countie, and the sherife or his officers, shall there take him againe vpon fresh suit, and before any action brought &c. this is no escape.

If one in execution for debt, bee set at large by the act of any of the kings courts, (scz. by the kings writ from out of any of the kings courts) this is no escape which shall charge the sherife, except it be in some speciall cases. See 38. E. 3. fo. 8. & 2. E. 4. 8. Crompt. 215. & hic fol. 58.

See the case of a Burgesse of the Parliament Delivered by a writ of Priviledge &c. Dyer fol. 6. & hic fol.

And yet vpon a writ de Homine repleg', the sherife deliueres a prisoner who is in for Redisseisin, the sherife shall bee amerced, hic fol. 46.

So if the sherife shall suffer his prisoner who is condemned in arrerages before Auditors, to escape, or shall deliuer him vpon a writ de Homine repleg. the sherife shall pay the debt, hic fol. 46.

And if one in execution for debt be set at libertie, or suffered to go at large, by the sherife, or other officer, vpon the commandement of any of the kings courts, without writ, this seemeth to be an escape. See hic fol. 58.

Si vn in execution pur det, soit suffer daler alarge per le vic' on auter officer, sur commandement del roy mesme, sans briefe, semble deste vn escape. See Dyer 297. hic fol. 58.

A man in execution within the Cinque ports, was brought by to London &c. vpon a priuie seale, or the like, this is no escape. 30. H. 6. fol. 6. Br. Escape 44.

A man is in execution for debt, & a woman being warden of the fleet marieth the prisoner, this is an escape, for that he cannot be his owne prisoner, nor a prisoner to his wife. Pl. 37.

A woman is in execution for debt, and the sherife, or gaoler marryeth her, Quære whether this be an escape or no.

Note that if a prisoner being in vpon an execution, shall escape of his owne wrong, without the consent of the officer, there the officer may take him againe at any time, hic fol.

Note also that if a man who is in execution vpon a stat, or recogn', shall happen of his owne wrong to escape, yet the sherife may extend his lands and goods vpon the same stat. &c. 33. El. Also see Co. 3. 44. & 5. 86.

If any sherife &c. shall leuie any of the kings debts, without shewing to the parties the estreats of the same vnder the seale of the Exchequer, they shall loose to the party griened treble damages, & also make fine to the R. 42. E. 3. c. 9. & 7. H. 4. c. 3.

The Dangers of Sherifes &c.

If any estreat of issues shall be gathered of any person, other than of such as by vertue of the said estreats shall of right be chargeable, or charged therewith, the gatherer thereof shall loose five markes to the party griued, and five markes to the king. 27. El. ca. 7.

K. Debtor.

A Sherife who hath receiued the kings Debt, if at his next accompt he shall not discharge the Debt, he shall pay to the plaintife thrice as much as he receiued, and also shall be fined to the king. See hic antea. 3. E. 1. c. 19.

If any Sherife &c. shall make any warrant for the arresting, attaching, or summoning of any person without an originall writ &c. they shalbe committed without baile, until they haue paid 10. l. to the party griued, besides costs and dammages, and also 20. l. to the king. 43. El. c. 6.

Arrest.

If any Sherife &c. shal omit any arrest, or shall shew any ease or fauour to any person arrested, or to be arrested (at any mans suit) for any reward: 13. H. 6. c. 10.

Or shal take any fees, or other thing, for any arrest &c. more than their due: See hic fol.

Or (vpon any arrest) shall take any obligation by colour of their office, but only to the Sherife himselte, and by the name of his office, and vpon condition only to appeare according to the writ or warrant:

Or shall detaine any prisoner, or person by them arrested, being baileable, after sufficient sureties offered:

Or shall do any other thing contrary to the statut of 23. H. 6. c. 10. in any point, they shall loose to the party griued treble damages, and shall also forfeit for euery such offence 40. l. to the king and Informer.

If any Sherife shal imprison any man for any matter inquireable in their Corne, except such as haue beene indicted there by enquest &c. an action of false imprisonment lyeth against the Sherife. 13. Edw. 1. cap. 13. See the Statute 1. Edw. 4. cap. 2.

If any Sherife shall suffer any barrettors, or maintainers of quarrells in their County Courts, they shall be griuouly punished. 2. E. 1. c. 32. See hic fol. 16.

Their courts.

If any Sherife &c. haue arrested or imprisoned, or caused any fine or ransome, or amerciament, to bee leuyed of any person, by reason of any indictment, or presentment made in the Sherifes Corne, without proces from the Iustices of Peace for the same first obtained, they shall forfeit one hundred pounds &c. 1. E. 4. c. 2.

If any Sherife hath not brought in such indictments and presentments to the Iustices of peace at their next Sessions, they shall forfeit forty pounds, hic fol. 155. Ibid.

Sherifes

Sheriffes &c. procuring or soliciting suits in their Courts, shall make fine to the King, and yeeld treble damages to the partie grieved. 13.E.1.cap.36.

11.H.7.c.15

If any Sheriff &c. shall enter into their bookes, any plaints (for debt, trespass, or covenant &c.) in any mans name, not being present at the Court, either in his owne person, or by his sufficient and honest Attorney or Deputie:

Or shall enter any more plaints, than the plaintife supposeth that he hath cause of action for:

Or if the Sheriff shall suffer the plaintife to enter more than one plaint, for one trespass, debt, contract, or cause:

Or if the Sheriff shall not cause the plaintife to find pledges to pursue his said plaint; scz. such persons as are known there in that County:

Or if the bailife of the Hundred shall make default in warning, or executing any warrant against any defendant in the Sheriffes Court:

Or if the bailiffes, or other person shall gather the Sheriffes amerciaments (or shire amerciaments) without a booke or estreats Indented betweene the Sheriff, and two Justices of peare, &c.

Or if the bailiffes, or gatherers of the Sheriffes amerciaments shall take or gather any more money than is forfeited and contained in such estreats.

Every Sheriff, bailiffe, and other officer, offending in the premises, and being thereof lawfully convicted &c. shall forfeit to the king fortie shillings for every such default.

If any Sheriff, or any other, shall baile, or let any goe at large by suretie, that is not baileable, if he be Sheriff, or officer of fee, he shall loose his fee, and office for ever: And if they bee not officers of fee, whosoever they be, they shall be fined by the Justices of Gaole delivrie. 3.E.1.c.15. 27.E.1.c.3. Fit. 25.1.1.

Bailement.

If any vnder Sheriff, or bailife, of such as haue fee, for keeping of prisons, doe it contrary to their Lords will, Or any other bailife being not of fee, they shall haue thre yeares imprisonment and make fine &c. Ibid.

If any Sheriff &c. shall deteine a prisoner that is baileable, after that the prisoner hath offered sufficient suretie, he shall be grievously amerced to the king, by the statute 3.Ed.1.cap.15.

23.H.6.c.10

And see the former statute of 23.H.6. he shall loose treble damage to the partie, and fortie pound to the king and informer.

And if any Sheriff &c. shall take any reward for the delivrance of any such as are baileable, hee shall pay double to the prisoner, and shall be in the mercy of the king.

Sheriffs & their officers are also punishable for extortion in taking any fees more than their due, see hic fol.

Extortion.

Sherifes,

The Dangers of Sherifes &c.

Sheriffes ought to array their Bannels for the Assises, sixe dayes before &c. sub poena twentieth pound.

Also they shall deliuer coppies indented of such Bannels, to each partie demanding the same vpon paine of fortie pound. See hic fol. 119.

If the sheriffe shall not retorne Bannels, as they be reformed by the Justices, they shall forfeit twentieth pound. hic 119.

If any sheriffe, or any of his officers, shall retorne vpon any Iurie, any of their officers, or seruants, they shall loose to the partie griued treble damages, and shall also forfeit fortie pound to the king, and informers. 23. H. 6. c. 10. hic fol. 121.

Iuries.

If any sheriffe &c. shall retorne vpon any Iurie, any person that is decrepite, or diseased; or such as dwell out of the Countie; Or men insufficient, or labored &c. they shall yeeld damages to the partie griued, and be amerced to the king: see hic fol. 147. 148.

If any sheriffe &c. shall take any reward to spare any Iuroz, or for not warning, or not retorning of any person to be sworn as a Iuroz &c. they shall forfeit five pound to the king and Informers 27. Eli. cap. 6.

If any sheriffe &c. shall retorne any Iuroz without a true addition of his dwelling &c. he shall forfeit five markes to the king and five markes to the partie griued, 27. Eli. cap. 7. vide hic fol.

They shall forfeit twentieth shillings for euery Hundreder, if sixe be not returned &c. hic. fol. 122.

They shall forfeit five pound, if they take any reward &c. to spare any Iuroz. hic 122.

They shall forfeit twentieth pound for not retorning sufficient Iuroz &c. hic fol. 125.

Issues.

If any sheriffe &c. shall leuie any Issues without warrant &c. he shall yeeld treble damages to the partie griued, and be sued to the king hic fol.

If the sheriffe &c. shall retorne issues vpon one who is not sufficient, he himselfe shall be charged therewith, see hic fol.

If the sheriffe &c. shall retorne any Iuroz, or any Issues vpon any Iuroz &c. who was not lawfully summoned &c. He shall loose double, so much as the issues lost by such Iuroz &c. hic fol. 121. 128.

If the sheriffe &c. shall not retorne due issues vpon euery Iuroz, the sheriffe shall forfeit five pound in some cases, and in some cases twentieth pound, and in other fortie pound, hic Retorne of Issues.

If the sheriffe &c. shall leuie any issues, other than of such persons as of right are chargeable, he shall forfeit five markes to the king, and five markes to the partie, hic. 152.

If

If the Sheriffe &c. shall retorne too small issues vpon the defendant ; Or shall retorne no issues, he shall be amerced &c. Fitz. Amercement 3. Br. 86.

If any High Sheriffe shall exercise his office, before hee hath taken his oathes, &c. hee shall bee fined in the Starre-chamber, and be imprisoned &c. hic fol. *Oath.*

If any Undersherif, or other the sheriffs officers &c. shall exercise their offices, before they haue taken their oathes &c. they shall forfeit xl. l. &c. to the king and informer. hic fol. 175.

If any Undersheriffe, or other the sheriffs officers, &c. shall doe or commit any act or thing contrarie to their oathes, they shall loose to the partie grieved treble Damunages. 27. Eliz. cap. 12. hic 175.

If the High Sheriffe shall not perforce his oath concerning his office, it seemeth he is fineable in the Starre-chamber. See hic fol.

If any sheriffe shall let to ferme his Countie, or any of his Bailiwicke, he shall forfeit fortie pound to the king and informer &c. 23. H. 6. c. 10. hic fol. *Their office.*

If any sheriffe, undersheriffe, or sheriffs clerke, shall abide in their office aboue one yeare, they shall forfeit to the king and informer two hundred pound hic fol.

If any sheriffe, or undersheriffe, which hath beene so by one whole yeere, shall be in that place againe within thzee yeares next ensuing, they shall forfeit &c. two hundred pound.

If the sheriffe be not resident within his Countie, he is punishable.

If the sheriffe shall not appoint Deputies in euery Court at westminster, before hee retorn any writ, hee shall forfeit xl. l. to the king &c. & treble Damages to the party grieved. hic fol.

If he shall not appoint foure Deputies (at the least) in his Countie, to make Replenties, he shall forfeit to the king, for euery month &c. five pound, hic fol.

If he shall not put in sufficient sureties (by Recognisance) in the Elchequer &c. before he exerciseth any part of his office he shall forfeit one hundred pound, See hic fol.

If he shall neglect to execute his office, by reason of resistance ; Or shall retorne that he could not execute the kings Proces for resistance, he shall be amerced, hic fol. 19. 136.

If the Sheriffe shall not enter a franchise to execute the kings Proces, where there is default in the bailife of the franchise, the sheriffe shall loose to the party grieved Double Damages, See hic fol.

If the Sheriffe, &c. or his officers, shall distreine (for the kings debt, or otherwise) any plow cattell, or sheepe :

Or

The Dangers of Sherifes &c.

Or shall take any excessive distresses :

Or shall drive any distresses too farre :

Or shall sell any Distresse (taken for the Kings debt) within fifteene dayes :

Or shall not shew the Proces of the Eschequer, for the leuying of the Kings debt, vpon demand :

Or shall not deliuer the Distresse, the party offering sufficient sureties &c. befoze the retozne of the writ :

In all these former cases the party (as it seemeth) may haue an attachment vpon the statutes, or else an action of trespassse, against the Sherife, or officer, See hic fol. 23.

If the officer vpon a Repleuy shall take one mans horse, bullocks, or other thing for anothers, he is a trespasser, hic fo.

If the Sherife &c. shall make Repleuie of any goods, or cattell, and shall not take pledges, de Prosequendo, Ac de retorno habendo, &c. he shall answer the price &c. hic & Fitz. Amercements fol. 2.

If the Sherife &c. shall seise the lands, or goods of one man for another man &c. the partie griued shall recouer double damages, hic 36.

Br. officer
8. & 10.

If the officer vpon a Fieri facias shall deliuer in execution, any goods which are not the proper goods of the defendant, he is a trespasser &c. hic fol. 58.

Arrest.

If the Sherife &c. shall arrest or attach one man for another, he is a trespasser &c. hic fol. 47.

If the officer shall arrest one without a warrant, though after he hath a warrant &c. yet he is a trespasser, hic fol. 47.

If the officer shall arrest any Minister in the Church &c. he shall be imprisoned, and yeeld recompence to the partie, hic fol. 48.

If the officer shall not arrest a man when he may (hee hauing warrant therfoze) an action of the case will lie against him, and the partie griued shall thereby recouer in damages all that he shall loose through such default of the officer, hic fol. 123.

Restorne.

Also the Sherife shall be punished for his delay, in not executing, or not returning of Proces deliuered to him, &c. hic fo. 44. vpon a writ directed to the Sherife vpon the statute of 31. H. 6. c. 9. for the inforcing of women to enter bonds &c. if the Sherife shall not duely execute the same, he shall forfeit thzee hundred pound. See the statute at large. & P. women. 15.

Note that the Sherife ought to execute the Kings writ at his perill, although resistance be made, Otherwise he shall be grievously amerced; And besides the partie shall haue his action against him, if the writ be not executed, for hee might haue

Br. officer.
40.
13 E. 1. c. 39
Fitz. execution.
248.

haue taken the power of the Countie to haue aided him &c. see hic. 16.65.

The Sherife shall be amerced, for not retozning, misretozning; or false retozning of a writ. See Fitz. Amercement. 4. & 18. 5. Eliz. 23. & 6.R.2.c.4. & hic fol.44.50.70.71.

He shall be amerced for imbeasling the writ; or for retozning of another, which was not the writ. Fitz. Amercemēt. 5.

A Sherife retozning a Mandavi ballivo libertatis, where there is no libertie he shall be punished as a disinheriter of the King, hic fol.

The Sherife maketh a false retozne vpon an Excom' Capiendo &c. he shall forfeit to the partie grieved forty pound. hic fol.68.

The Sherife amerced at fiftie markes for his false retozne of an Exigent, hic 75.

Sherifes misreturning, or not retozning any writ, to them directed and deliuered, concerning the leuying of the kings debt, rents, reuenuess, or issues &c. they shall pay such fines and amerciamentes, as shall be assessed vpon them by the chiefe officers of the Kings Courts of Reuenuē &c. 7.E.6.c.1.

A Sherife returneth a writ without setting his hand thereto, he shall be grievously amerced, hic fol.74.

Sherifes shall be amerced for the default of their vnder-sherifes, or bailifes, in making false, or insufficient retoznes. See hic titulo retorne fol.

Sherifes not making due election of knights, for the Parliament, or retozning knights &c. of the Parliament falsly, or contrary to the statutes, shall be imprisoned for one yeare, without baile, and besides shall forfeit to the king one hundred pound, and to the partie chosen knight &c. and not returned another hundred pound, hic 131.

Sherifes not attending the seruice for the assessing of wages of the knights of the Parliament shall forfeit xl.s.

If they shall not asseesse every hundred, and towne, thereto according to the statute, they shall forfeit thirty pound.

If they shall leuie vpon any towne, more than is so assessed, they shall forfeit thirtie pound.

So if they shall not deliuer the same &c.

Sherifes shall bee punished in the Starre chamber for their vntreue demeanings in making of Pannels, and other vntreue retoznes; or for taking vndue fees, or bybes. 3.H.7. cap. 1. P. Courts 4.

If the Sherife vpon request, shall not aide & assist him frō whō any Catoz, of any Noble man, or other subiect, shall take any goods, or carriage against the will of the owner, the Sherife shall forfeit to the k. & party grieved &c. xx.l. hic fol. 15.

¶

The Dangers of Sherifes &c.

Riots.

If the Sherife or Undersherife shall not ioyne with the Justices of peace, in executing the statute of 13. Hen. 4. against rioters; 1c2. to arrest the rioters; to make a record of that which they shall see so done; & to imprison the offenders, they shall forfeit one hundred pound. *hic fol. 15.*

If the riot cannot be found by the Justices of peace &c. then within one moneth, the Justices of peace, and the sherife or undersherife, shall certifie the fact and circumstances, to the King &c. upon paine of euery of them to forfeit one hundred pound. *hic fol. 15. 16.*

If the riot be not found, by reason of any maintenance, or embracery &c. Then the Justices and sherife or undersherife, in the same Certificat, shall also certifie, the names, and misdemeanors of those maintainers & embracers, upon paine of euery of them making default to forfeit xx. l. *hic fol. 15.*

Sherifes which shall not arrest all persons, that ride or goe armed &c. shall be punished by the Justices of Gaole deliuerie, &c. *hic fol. 2. H. 3. c. 3.*

If the sherife shall not execute the precepts of Commissioners of Sewers, &c. they may assesse and impose fines &c. upon the sherife. *hic fol.*

Seruaunts and labozers departing into other shires, if the Justices of peace doe grant out any Proces against them, the sherife is duely to execute such their Proces upon paine of twentie pound. *2. H. 5. c. 4.*

If the sherife shall not duely execute all Proces and Precepts, as shall come to him from the Justices of peace, he is punishable &c. See *hic 144.*

Note that the Justices may commit the Sherife to prison, for an offence done befoze them, and they may make or appoint another officer (for the time) to keepe him, *Martin. 8. H. 6. 60.*

A bailife being indited of extortion, his rod was taken from him, and he was committed &c. *42. Aff. p. 5.*

Sometimes the Sherife or other officer shall be punished for executing their warrant.

As where the Court (out of which the Proces or Warrant shall come) hath not iurisdiction of the cause, and yet shall grant out Proces &c. and the sherife or other officer shall execute the same, they are punishable. See *hic fol. 45. 46.*

If the old Sherife, after that he is discharged, shall make his warrant to arrest another, and the bailife shall execute this, a writ of false imprisonment lyeth as well against the old Sherife, as the bailife which executed such his Warrant &c. *hic fol. 9. & 47.*

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Where the Sherife for his default, shall be Amerced to the King, and also subiect to the action of the partie ; and so twice punished for one default.

If the Sherife (vpon a Capias ad satisfac' : or vpon the Exigent) retoznerth Cœpi corpus, and yet hath not the body at the day, he shall not onely be amerced, but the plaintife also may haue an action of Desceit against the Sherife, by an Originall writ ; Or else the plaintife may sue against the Sherife in the Eschequer, vpon his accompt. Br. Retorne 31. & 107.

The Sherife vpon a Fieri facias, retozned quod fieri fecit x. l. parcell de xx. l. in breue specificat' &c. And at the day had not the money, there the Court might amerce him, and besides after a new Sherife was made, a Scire facias went out to the new Sherife, against the old Sherife to haue execution against him &c. 9. E. 4. Br. Retorne 55.

If any writ shalbe deliuered to the Sherife &c. And the Sherife shall make retozne thereof, but shall not summon or warne the defendant ; Or otherwise shall not serue the writ as he ought ; by reason whereof the plaintife, or defendant, shall be in any sort dammified, he shalbe amerced, and besides the partie griued may haue their action of the case &c. against the Sherife.

If any Sherife, or his officer, without speciall warrant, shall disseise any man of his freehold, the disseisee may haue his writ of Nouell dissein' wherein he shall recouer double damages, and besides the officer shall be griuouly amerced to the King. 3. E. 1. c. 24.

A man was indited befoze the Sherife (in his Tozne) wherupon his Lands and Chattels were seised by the Sherife, and by Deuon, the Sherife had no warrant by the inditement to seise the lands, and therfore aduised the party to bring his Assise &c. Fitz. Assise 373.

And therfore Sherifs befoze they seise any mans lands, must haue good warrant, or cause so to doe, Vide hic fol. 19. 25.

Vide plus. Br. *Action sur le case*. 48. 51. 53. 73. & 121. & hic fol. precedente.

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If the Sherife taketh one vpon a Capias, and retoznerth not the writ, the plaintife may haue his remedie by force of the stat. 13. E. 1. c. 39. & shal recouer his damages, And the defendant may haue his action of false imprisonment, hic. 70.

A

Upon

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Al

Vpon

The Abuses of some Sherifes.

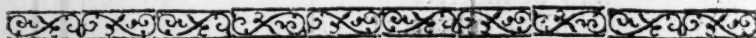
Upon a Fieri facias the Sherife leuieth the money, but neither retorne the writ, nor paieth the money to the plaintife, here the plaintife may charge the Sherife in an action of accompt, and the defendant in an action of trespasse, hic 70.

If any Sherife &c. shall retorne vpon any Jurie, any persons which are not sufficient &c. Or contrary to the stat. the Sherife shall be subiect to the actions of the parties plaintife and defendant, as also of such Juroz so returned, hic 120. 121.

Where the new Sherife shall haue an action against
his Predecessor, for his false Retorne.

The old Sherife retorne a Venire facias Iurat' and then was discharged, and Proces continued to the distresse, and the new Sherife retorne vpon a Juroz, Nihil habet, and was therefore amerced, for that he ought to haue pursued the first retorne of his Predecessor, and to haue shewed the speciall matter &c. And therefore if the Juroz were not sufficient at the first, the new Sherife shall haue an action of deceit against his Predecessor. 19.H.6. Br. Retorne. 49. See plus Br. *Action sur le case.* 53.

Where the Lord or bailife, of a franchise, shall haue their action against the Sherife. See fol. 72. 73. 181.



The abuses practised by some Sherifes, Vndersherifes, and Bailifes, &c.

Accompts.



Sherifes, haue obtained often times, vpon their accompts, outrageous allowance, vnder pretence of the Kings workes and busineses. Stat. 51.H.3.

Felons.

They haue (for reward, prayer, feare or affinitie) concealed felonies; Or haue neglected to attach them. 3.E.1.c.9.

They haue procured prisoners to become approuers; scz. to appeale harmlesse and guiltlesse people, of felonies; thereby either to get ransome of such appealed persons, for feare of imprisonment; Or else out of malice, or other cause: See the statute 13.E.1.cap.12. & 1.E.3.cap.7.

*Fained in-
ditements.*

They haue fained persons to be indicted of felonies, or other trespases, in their Tournes, & haue imprisoned them, and haue exacted money from them, by colour thereof, 13.E.1.cap.13.

They

They haue procured Commissions, and generall writs, and by colour thereof haue made and taken diuers Enquests and indicted people at their will, And then haue taken fine & ranfome of them to their owne vse, and so deliuered the persons indicted, not bringing them before the kings Iustices, &c. 28.E.3.cap.9.

They haue solicited and procured suits in the Countie Courts, compelling thereby poore men &c. to followe their Courts, vntill they haue made fine with them, at their wills, 13.E.1.cap.36. *In their Courts.*

11.H.7.c.15 They haue vsed to enter in their booke, more plaints than the plaintife supposed he had cause of action for, in their Countie Courts.

As also more plaints than one, for one debt, trespass, contract, or cause, to the vexation of the subiects.

Ibid. Also many times in plaints entred before them in their Counties, the defendants are neuer attached, summoned, or warned, and so for want of knowledge of such suits against them the defendants are vnjustly punished and vexed.

Ibid. They haue vsed to enter plaints in their said Courts, in the names of persons that were dead.

They haue taken fines of the parties, for not pleading wel &c. Fitz. 270.52.H.3.11.

They haue bayled persons not Baileable, whereby notable felons and offenders haue escaped. *Bailements.*

They haue kept and detained in prison persons baileable, onely to grieue or bere them, Or else to gaine and get money of them. 3.E.1.cap.15.

They haue sent strangers to take distresses (whereas none but bailifes swozne and knowe ought to take distresses) thereby grieuing their neighbours, and exacting money of them thereby, 13.E.1.c.37.

They retozne men vpon Iuries, which are decrepitate, diseased, and dwelling out of the Countie. *Iuries.*

And sometimes they retozne an vnreasonable number; hie fol.

And vsually they retozne men of the poorest and meaneest sort, least able to discern the causes in question; and most vnable to beare the charges of attendance, sparing & letting the rich men, and most able and sufficient freeholders to abide at home; and all this they doe to get money and byrbes.

They often retozne vpon Iuries, persons suspect, and of euill fame: and sometimes persons nominated to them; taking gifts and rewards for such purpose.

They haue retozned vpon Iuries, their officers, and seruants.

The Abuses of some Sherifes.

They are slacke in arraying their Bannels; Or deliv-
ring coppies thereof.

Extortion.

They extort and take undue fees. See the statute 23. H.
6. 8. 9. & 11.

They leuie more than is contained in their estreats. 11. H. 7. c. 15.
7. cap. 15.

They leuie issues double, scz. the same issues of diuers per-
sons, being of one name, &c. 27. Eliz. 7.

They leuie the same issues, fines and amercements of the
same man two or three times. 7. H. 4. cap. 3.

They rectiue the kings debts, but discharge not the debtors.
Undersherifes, (and other the Sherifs officers) doe usually
practise as Attorneys:

They also continue in their places many yeeres together:
both which are contrary to the lawes; And besides by reason
thereof the kings subjects dare not sue them, nor com-
plaine of their extortions and oppressions.

Arrest.

They Arrest men sometimes without any warrant or
proces.

Sometimes they make warrants &c. without any Ori-
ginall.

They wilfully omit to arrest one when they may.

After arrest, (for bribes) they shew fauour; Or wilfully
suffer the partie to escape.

Upon a Capias vrlagatum, if they take the defendant, they
often take money of him, and so let him goe againe, when
they haue also formerly taken money of the plaintife to take
the defendant:

They like they will doe, when they haue taken vpon one a
Capias ad faciendam or other execution &c.

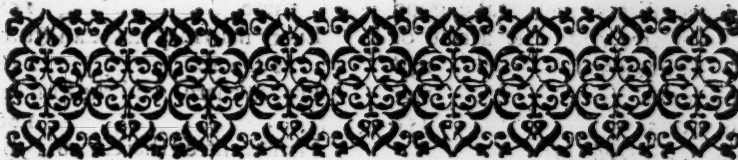
And so both the king, and the subjects are thereby much
wronged.

Lastly the king is many times much detoured and wrong-
ged betweene these vndersherifes, and the sherifes, of all his
waiffes, rates, felons goods, saluages goods, amerce-
ments, fines, and other profits due to the king, which many
times are by them either taken by and employed to their owne
use, Or secretly compounded for, but neuer accounted for.

Deus

Minimis

Magnus.



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[illegible]

FINIS.

Solo Deo Gloria.

Deus
Minimis Magnus.

